

## **EXHIBIT 2**

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Page 1

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: ) No. 12-12020 (MG)  
 )  
RESIDENTIAL CAPITAL, LLC, ) Chapter 11  
et al., ) Administered  
Debtors. ) Jointly  
----- )

July 24, 2013  
8:08 a.m.

Deposition of ALLEN M. PFEIFFER, held  
at the offices of Willkie, Farr & Gallagher  
LLP, 767 Seventh Avenue, New York, New York,  
before Laurie A. Collins, a Registered  
Professional Reporter and Notary Public of the  
State of New York.

Page 2	Page 4
1	1
2 APPEARANCES:	2 APPEARANCES (continued):
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2 (Pages 2 - 5)

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Page 6	Page 8
1	1 Pfeiffer
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10	10 MR. KERR: Charles Kerr, Morrison &
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12 Attorneys for Duff & Phelps and Witness	12 MR. KOTWICK: Mark Kotwick, Seward &
13 2 Grand Central Tower	13 Kissel on behalf of U.S. Bank as trustee.
14 140 East 45th Street, 19th Floor	14 MR. WEITNAUER: Kit Weitnauer, Alston &
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16 BY: HOWARD S. KOH, ESQ.	16 MR. KOH: Howard Koh, Meister Seelig &
17 hsk@msf-law.com	17 Fein, on behalf of Duff & Phelps.
18	18 MR. BAIO: I'm going to ask the
19 ALSO PRESENT:	19 reporter to mark as the first exhibit, a
20 BARRY RIEGER (Protiviti)	20 multipage --
21 SCOTT GIBSON (MountainView Capital)	21 MS. LEVINE: I'm sorry.
22	22 MR. BAIO: I'm sorry. Go ahead.
23	23 MS. LEVINE: Let me introduce myself on
24	24 the phone. Adina Levine from Kramer Levin
25	25 representing the unsecured creditors.
Page 7	Page 9
1	1 Pfeiffer
2 ALLEN M. PFEIFFER,	2 MR. BAIO: Is anyone else on the phone?
3 called as a witness, having affirmed to tell	3 MR. WYNNE: Rick Wynne from Jones Day.
4 the truth, was examined and testified as	4 MR. BAIO: Anyone else?
5 follows:	5 All right. I'm going to ask the
6 EXAMINATION BY	6 reporter to mark as the first exhibit,
7 MR. BAIO:	7 Pfeiffer 1, a multipage document identified
8 Q. What is your name?	8 expert report of Allen M. Pfeiffer.
9 A. My name is Allen Pfeiffer.	9 (Pfeiffer Exhibit 1, expert report of
10 Q. Where do you work?	10 Pfeiffer, marked for identification.)
11 A. I work at Duff & Phelps.	11 Q. Mr. Pfeiffer, can you tell me what
12 MR. BAIO: We're going to start by	12 Exhibit 1 is?
13 introducing the various counsel. My name is	13 A. It is the expert report dated -- it's
14 Joe Baio. I represent various investors in	14 my expert report dated July 19th, 2013.
15 this matter. They have been identified in the	15 Q. Did you prepare any part of it?
16 record.	16 A. I did.
17 And I'll ask everyone to identify	17 Q. What part?
18 themselves, going to the left.	18 A. I'm responsible for all of it.
19 MR. RIEGER: My name is Barry Rieger.	19 Q. Can you look toward the back of Exhibit
20 I work with Protiviti.	20 1. There is a document identified behind
21 MR. BILLER: Arthur Biller, Willkie	21 Attachment 3 which bears the title "ResCap" on the
22 Farr.	22 left-hand side, "Duff & Phelps" on the right-hand
23 MS. JAMES: Emma James, Willkie Farr.	23 side, is dated May 15th, 2013, and headed
24 MR. GELFARB: David Gelfarb, Moss &	24 "Residential Capital, LLC."
25 Kalish.	25 Do you see that?

3 (Pages 6 - 9)

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<p style="text-align: right;">Page 10</p> <p>1 Pfeiffer  2 A. I do.  3 Q. And what is that document and the pages  4 that follow to the end of Exhibit 1?  5 A. This document is the written  6 presentation that was shared with the RMBS  7 trustees on May 15th, 2013, related to the FGIC  8 commutation proposal.  9 Q. And did you prepare this Attachment 3  10 to Exhibit 1?  11 A. I am responsible for it as well.  12 Q. Who else participated in the  13 preparation of it?  14 A. Members of my team at Duff &amp; Phelps.  15 Q. Anyone outside of Duff &amp; Phelps?  16 A. The source of some of the information  17 is -- some of the -- some of the information is  18 sourced from outside of Duff &amp; Phelps, but Duff &amp;  19 Phelps actually put together the PowerPoint  20 slides.  21 Q. And when -- and who -- strike that.  22 Who were the sources of the other  23 information that is incorporated in -- we'll call  24 it the May 15th report. Is that fair? You'll  25 know what I'm referring to?</p>	<p style="text-align: right;">Page 12</p> <p>1 Pfeiffer  2 (Mr. Goodman joins proceedings.)  3 Q. Which trustees were present, so far as  4 you know? And I'm talking about the May 13th  5 teleconference.  6 A. My understanding is that all of the  7 trustees were present.  8 Q. Was anyone else present besides the  9 trustees and their counsel, so far as you know?  10 A. My understanding and recollection is  11 that it was only the trustees, trustees' counsel  12 and Duff &amp; Phelps employees. However, when we  13 define the trustees' counsel and -- well, the  14 trustees' counsel, I think that the trustees are  15 defined in my report and defined in this matter as  16 limited to Wells Fargo and Bank of New York and  17 U.S. Bank.  18 I don't recall and I'm not sure if the  19 other trustees related to the RMBS trustee matter  20 for ResCap more broadly. I can't recall if they  21 were on the phone.  22 Q. Is there a list or a record of who  23 attended, so far as you know?  24 A. Not as far as I know, no.  25 Q. You haven't seen anything that</p>
<p style="text-align: right;">Page 11</p> <p>1 Pfeiffer  2 A. I'd call it the May 15th presentation,  3 okay.  4 Q. Okay, the May 15th presentation.  5 Who were the other sources of  6 information contained in the May 15th  7 presentation?  8 A. FGIC and Lazard and of course all the  9 public sources that we used to -- as inputs to our  10 analysis as well.  11 Q. Where did the presentation occur on May  12 15th?  13 A. This is the written product that was  14 sent to the trustees and their counsel on May  15 15th. The actual presentation itself occurred two  16 days earlier on May 13th, and it was a telephonic  17 conference.  18 Q. Who was present at the May 13th  19 telephonic conference?  20 A. A lot of people.  21 Q. Was any part of it in a conference  22 room?  23 A. Duff &amp; Phelps employees were in  24 conference rooms, but I can't be sure where the  25 trustees or counsel for the trustees were sitting.</p>	<p style="text-align: right;">Page 13</p> <p>1 Pfeiffer  2 identifies who was present?  3 A. No.  4 Q. How long did the teleconference take  5 place?  6 A. The teleconference was somewhere  7 between an hour and an hour and a half.  8 Q. Did you do most of the talking?  9 A. No.  10 Q. Who did most of the talking?  11 A. My colleagues.  12 Q. Which colleagues?  13 A. Brendan Murphy and Alice Chong. There  14 were several other colleagues besides me that  15 likely spoke as well.  16 Q. Did you say anything during the  17 teleconference on May 13th?  18 A. I did.  19 Q. And without telling me what it is for  20 now, can you recall what you said as opposed to  21 what others said?  22 A. I can't recall precisely what I said,  23 no.  24 Q. Did the trustees say anything during  25 the May 13th teleconference?</p>

<p style="text-align: right;">Page 14</p> <p>1 Pfeiffer  2 A. I can't recall exactly, but I believe  3 they did.  4 Q. Do you recall whether any asked  5 questions?  6 A. I recall there were -- there were --  7 there was a lot of discussion and a number of  8 questions. I don't recall exactly who asked what  9 questions.  10 Q. Now, at the -- or during the May 13th  11 teleconference, is it correct that the May 15th,  12 2013, presentation was not in the hands of the  13 trustees during that teleconference; is that  14 correct?  15 A. The almost precisely exactly -- almost  16 exact presentation was in their hands. It was  17 only subsequently updated to take off the word  18 "draft" and small edits like that, no -- but the  19 substance of our presentation was in their hands.  20 Q. And some of the numbers changed from  21 the draft to the final; is that correct?  22 MR. KOTWICK: Objection to the form.  23 A. Some of the numbers changed from the  24 initial draft to the final, but the numbers did  25 not change between May 13th and May 15th. There</p>	<p style="text-align: right;">Page 16</p> <p>1 Pfeiffer  2 And the layout is similar, but some of the pages  3 are in different order.  4 Q. Did you or anyone, so far as you know,  5 provide the May 6th draft of the commutation  6 proposal discussion materials to anyone?  7 A. Can you repeat that question, please?  8 Q. I'll do it.  9 Did you give the May 6th draft to  10 anyone?  11 MR. KOTWICK: Objection to form.  12 A. Yes.  13 Q. Whom?  14 A. We shared it with counsel.  15 Q. Your own counsel or other counsel?  16 A. We shared it with counsel for the RMBS  17 trustees.  18 Q. Then did you receive comments on it?  19 A. We had discussion around that draft.  20 Q. That draft, did it reflect the same  21 settlement offer by FGIC as appears in this  22 Attachment 3 to Exhibit 1?  23 MR. SIDMAN: Objection to form.  24 A. I believe it substantially did, yes.  25 Q. Did you prepare any draft version of</p>
<p style="text-align: right;">Page 15</p> <p>1 Pfeiffer  2 was a WebEx. I shouldn't refer to it as a  3 teleconference. I apologize for that. It was a  4 WebEx. So it was presented on people's screen as  5 well.  6 And so that presentation is  7 substantially the same as the one that you have in  8 front of you dated May 15th, and the numbers did  9 not change between what was on the WebEx and the  10 May 15th date.  11 Q. How many drafts are there of this  12 report that is Attachment 3 to Exhibit 1?  13 MR. KOTWICK: Objection to the form.  14 A. The only ones that I'm aware of are the  15 two drafts that -- one is dated I believe May 6th,  16 and then there was the draft that was as of May  17 13th or 14th. Other drafts were, you know,  18 written over, and I don't have them.  19 Q. The May 6th draft, do you know if that  20 was produced to us?  21 A. I believe it was.  22 Q. And is it the same number of pages,  23 nine pages, similar layout?  24 MR. KOTWICK: Objection to the form.  25 A. I think it might have been ten pages.</p>	<p style="text-align: right;">Page 17</p> <p>1 Pfeiffer  2 the May 15th presentation that encompassed a  3 different settlement offer by FGIC?  4 A. I don't believe so.  5 Q. Did you do any analysis on any  6 settlement offer made by FGIC other than the one  7 that appears in the May 15th presentation?  8 MR. KOH: Objection to form.  9 A. I don't believe so.  10 Q. And when did you receive the FGIC  11 proposals?  12 A. Sometime in March of 2013.  13 Q. Late March?  14 A. Yes.  15 Q. How did you get it?  16 A. We received it via e-mail.  17 Q. And the proposal that you received in  18 late March, that was the same as the proposal  19 that's embraced and included in your May 15th  20 presentation; is that correct?  21 MR. KOH: Objection to form.  22 A. Substantially the same, yes.  23 Q. When you say "substantially," was there  24 anything different that you can recall?  25 A. I don't recall any differences.</p>

5 (Pages 14 - 17)

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<p style="text-align: right;">Page 18</p> <p>1 Pfeiffer  2 Q. Can you turn to page 5 of the May 15th  3 presentation which appears in Exhibit 1.  4 A. If I can qualify my last answer, the  5 number is what I'm focused on when I say  6 "substantially the same." It is the same. I'm  7 not now recalling exactly to what extent the  8 trustees retained certain rights, you know, and  9 when that was documented and how that related to  10 what was discussed in March or April or May  11 relative to the final settlement agreement that  12 was signed.  13 Q. What rights are you referring to in  14 your response?  15 A. The trustees -- first of all, the  16 premiums being waived; second, their rights to  17 future recoveries; their -- their rights to the  18 R&amp;W -- the recoveries associated with R&amp;W claims.  19 Q. Anything else?  20 A. Those are all that come to mind right  21 now.  22 Q. And when you say the number remain the  23 same, are you referring to the commutation amount  24 of \$253.3 million?  25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 Pfeiffer  2 case.  3 We have, through conversations over the  4 last few days, tried to make a particular  5 document available to you and your colleagues  6 so that you could conduct this examination  7 with the full disclosure, while at the same  8 time protecting our obligations and our rights  9 under the mediation order in this case.  10 I'm not going to go into the back-and-  11 forth. We made an offer, you declined to  12 accept it, we are where we are. The issue is  13 now in front of the court.  14 MR. BAIO: Yes.  15 MR. SIDMAN: I want to make clear for  16 the record the offer is still open. If you  17 choose to accept it, you can have the document  18 and we can proceed with the deposition in full  19 disclosure.  20 At this point, based on the fact that  21 the issue is pending before the court and the  22 fact that we have made the offer and you  23 declined to accept it, we are where we are,  24 and you have to proceed with the deposition on  25 that basis.</p>
<p style="text-align: right;">Page 19</p> <p>1 Pfeiffer  2 Q. And you said you received the proposal  3 in March in e-mail form or from an e-mail; is that  4 correct?  5 A. Yes.  6 Q. Have you produced that?  7 A. If we produced the e-mail, I don't -- I  8 don't know. You'd have to ask counsel.  9 Q. How about the attachment, did you  10 produce the attachment that embodied the proposal  11 in late March of 2013?  12 MR. KOH: Objection to form.  13 A. My understanding is that page 5 -- the  14 right side of page 5 is the -- is the content of  15 the attachment that was included in the e-mail in  16 March of 2013.  17 Q. Were there any other terms of the  18 proposed settlement included in that document,  19 including whether premiums would be waived, the  20 extent to which the trustees would have rights to  21 future recoveries, and the like?  22 MR. SIDMAN: Counsel, I'm going to  23 object to this question on the grounds that it  24 encompasses -- it relates to information that  25 is protected by the mediation order in this</p>	<p style="text-align: right;">Page 21</p> <p>1 Pfeiffer  2 MR. BAIO: Right. We also made an  3 offer that we would accept it under the terms  4 of the confidentiality order that covers every  5 other document in this case. You have refused  6 that.  7 We continue to leave that open and are  8 prepared to proceed. You've decided not to.  9 It is before the court. But it takes two to  10 tango, and you're not agreeing.  11 We don't have to put any more on the  12 record.  13 MR. SIDMAN: Right.  14 MR. BAIO: It is what it is. I'm just  15 asking questions now about a document. I'm  16 not sure whether it is the same document. I  17 just want to know what he understands has been  18 produced, what he received, so that we can  19 have an effective cross-examination.  20 MR. SIDMAN: I understand. And you can  21 ask your questions. But I'm instructing the  22 witness not to answer questions with respect  23 to that particular document. Take whatever --  24 make whatever judgments you want to based on  25 my instruction.</p>

<p>1 Pfeiffer</p> <p>2 MR. BAIO: Can we go back to the</p> <p>3 question.</p> <p>4 (Record read as follows: Were there any</p> <p>5 other terms of the proposed settlement</p> <p>6 included in that document, including whether</p> <p>7 premiums would be waived, the extent to which</p> <p>8 the trustees would have rights to future</p> <p>9 recoveries, and the like?)</p> <p>10 MR. SIDMAN: Same instruction.</p> <p>11 MR. KOH: In light of that instruction,</p> <p>12 I'm going to direct Mr. Pfeiffer not to answer</p> <p>13 that question.</p> <p>14 MR. BAIO: Okay.</p> <p>15 MR. GOODMAN: So there's two</p> <p>16 instructions.</p> <p>17 MR. BAIO: Wow.</p> <p>18 Q. The document you referred to that you</p> <p>19 had received in late March that embraced the</p> <p>20 settlement proposal, it did include the</p> <p>21 calculations that appear in one form or another on</p> <p>22 page 5 of the May 15th presentation; is that</p> <p>23 correct?</p> <p>24 MR. KOH: Objection to form.</p> <p>25 MR. SIDMAN: Hold on.</p>	<p>Page 22</p> <p>1 Pfeiffer</p> <p>2 an economic perspective relative to the expected</p> <p>3 payments that would result from the rehabilitation</p> <p>4 plan.</p> <p>5 Q. And that's in connection with the</p> <p>6 proposal that you received in late March of 2013;</p> <p>7 is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Is that proposal that you analyzed</p> <p>10 without any subsequent changes; is that correct?</p> <p>11 A. I don't understand your question.</p> <p>12 Q. Did you do an analysis of that proposal</p> <p>13 that you received itself without there having been</p> <p>14 any changes to that proposal? In other words, is</p> <p>15 there an analysis that you did of that proposal</p> <p>16 independent from anything that occurred</p> <p>17 thereafter?</p> <p>18 MR. SIDMAN: Objection to form.</p> <p>19 A. I'm not trying to be difficult, but I</p> <p>20 don't understand the question.</p> <p>21 Q. The proposal that you received had</p> <p>22 certain terms, that is, the proposal that you</p> <p>23 received in March of 2013; correct?</p> <p>24 A. Correct.</p> <p>25 Q. And you analyzed and evaluated those</p>
<p>1 Pfeiffer</p> <p>2 (Pause.)</p> <p>3 MR. SIDMAN: Same instruction. He</p> <p>4 can't answer that.</p> <p>5 MR. KOH: Same direction.</p> <p>6 Q. Did the proposal about which you have</p> <p>7 been testifying include the three main assumptions</p> <p>8 that appear on this page?</p> <p>9 MR. SIDMAN: Same instruction.</p> <p>10 MR. KOH: And same direction.</p> <p>11 Q. Did it include any discussion of a</p> <p>12 haircut?</p> <p>13 MR. SIDMAN: Same instruction.</p> <p>14 MR. KOH: And same direction.</p> <p>15 Q. Did you follow up with anyone at FGIC</p> <p>16 following your receipt of that document about the</p> <p>17 subjects addressed in the document?</p> <p>18 MR. SIDMAN: Same instruction.</p> <p>19 MR. KOH: Same direction.</p> <p>20 Q. Did you do any analysis of that</p> <p>21 document that you received in late March of 2013?</p> <p>22 MR. SIDMAN: You can answer.</p> <p>23 A. Yes.</p> <p>24 Q. What did you do?</p> <p>25 A. We did an analysis of the proposal from</p>	<p>Page 23</p> <p>1 Pfeiffer</p> <p>2 terms; correct?</p> <p>3 A. Yes.</p> <p>4 Q. And is that evaluation in any document?</p> <p>5 A. The evaluation is in the document that</p> <p>6 we've been discussing, the presentation dated May</p> <p>7 15th, and the underlying analysis that has been</p> <p>8 shared with you that goes behind this presentation</p> <p>9 and the draft of the presentation that we</p> <p>10 discussed a few minutes ago.</p> <p>11 Q. Did you do any analysis of a proposal</p> <p>12 by FGIC which did not include a waiver of the</p> <p>13 premium payment?</p> <p>14 A. I don't believe so.</p> <p>15 Q. So whatever analyses that you did, you</p> <p>16 did not consider and evaluate any proposal that</p> <p>17 did not include the waiver of the premium payment;</p> <p>18 is that correct?</p> <p>19 MR. KOH: Objection.</p> <p>20 You may answer.</p> <p>21 A. I recall now that the initial proposal</p> <p>22 included a waiving of the premium payments.</p> <p>23 Q. And what about rights to future</p> <p>24 recoveries, did the initial proposal include any</p> <p>25 such rights?</p>

<p style="text-align: right;">Page 26</p> <p>1 Pfeiffer  2 MR. KOTWICK: Objection to form.  3 A. I don't recall.  4 Q. Did you do any analysis or review of  5 any proposal that did not include the trusts  6 having retained any rights to future recoveries?  7 A. Our initial analysis was focused on the  8 271 as compared to the expected payments from the  9 rehabilitation plan.  10 Over the many weeks that we looked at  11 the proposal and provided further analysis, we  12 then included in our discussion and in our  13 analysis the potential recoveries and the rights  14 that they have -- that the trustees have to the  15 recovery on the R&amp;W claim.  16 Q. And that's embodied in your report --  17 is that correct? -- that is, Exhibit 1?  18 A. It is -- it was referenced in our -- in  19 our Web conference, teleconference, on the 13th,  20 and it is referred to in our report.  21 Q. Where?  22 A. It is referred to on page 3 as a  23 benefit that is listed on the second bullet point  24 on the left that the FGIC settlement proposal  25 provides a benefit in that it provides a global</p>	<p style="text-align: right;">Page 28</p> <p>1 Pfeiffer  2 FGIC in their proposal.  3 Q. And that would be in the proposal that  4 you received in late March of 2013; is that  5 correct?  6 A. I believe so.  7 Q. You'll see that the first line  8 underneath the heading says, "The proposal  9 outlines a cash payment of approximately \$253  10 million by FGIC upon emergence in exchange for the  11 ability of FGIC to assert approximately \$597  12 million of allowed claims at ResCap."  13 Do you see that?  14 A. I do.  15 Q. Did you understand in March and in May  16 of 2003 that that was an accurate statement of the  17 proposal?  18 MR. KOH: Objection.  19 MR. SIDMAN: Objection to form.  20 A. I understood it to be an accurate  21 statement.  22 Q. And you didn't call up or contact  23 anybody at FGIC to say that you disagreed with  24 that; is that correct?  25 MR. SIDMAN: Objection. I'm trying to</p>
<p style="text-align: right;">Page 27</p> <p>1 Pfeiffer  2 resolution on outstanding ResCap RMBS litigation  3 issues.  4 Q. Does that appear anywhere else, that  5 benefit, in this document?  6 MR. KOH: Objection.  7 A. Well, it appears on the right side as a  8 risk with respect to the FGIC plan, that if the  9 settlement proposal is not accepted that the risk  10 would be that the outstanding ResCap RMBS  11 litigation issues would need to be resolved  12 separately.  13 Q. Okay. Can you go back to page 5 of  14 Attachment 3 to Exhibit 1. And what is this page  15 showing?  16 A. This page outlines the proposal as  17 received from FGIC.  18 Q. And who prepared this page?  19 MR. KOTWICK: Objection to form.  20 A. Duff &amp; Phelps put the words on the  21 computer and the words that you see in front of  22 you in PowerPoint on this page. However, the  23 inputs, the analysis, the calculations, are not  24 Duff &amp; Phelps calculations. These are all  25 calculations that were specifically received from</p>	<p style="text-align: right;">Page 29</p> <p>1 Pfeiffer  2 be helpful here and allow you to conduct your  3 examination, but once again I'm going to  4 instruct the witness not to respond to  5 questions that deal with communications with  6 FGIC in connection with -- in connection with  7 information provided on this particular page,  8 because that information is protected by the  9 mediation order.  10 MR. BAIO: Okay. I think just to  11 shorten things, because we only have so much  12 time, it would be useful if you say,  13 "Objection, mediation," and then direct him  14 not to answer, because these speeches are not  15 so helpful.  16 MR. KOH: Same direction.  17 Q. So he's instructing you not to answer,  18 and your counsel is directing you not to answer.  19 Well, did you have any contact with  20 FGIC or any individuals at FGIC following the  21 receipt of the March 2013 communication?  22 A. Members of my team at Duff &amp; Phelps did  23 have conversations with FGIC and their advisors  24 subsequent to March 2013.  25 Q. And that included the CFO of FGIC;</p>

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<p style="text-align: right;">Page 30</p> <p>1 Pfeiffer  2 correct?  3 MR. KOTWICK: Objection to the form.  4 MR. SIDMAN: Objection to the form.  5 A. Correct.  6 Q. Who else at FGIC did members of your  7 team talk to following the receipt of the March  8 2013 proposal?  9 A. I don't recall the names right now.  10 Q. Can you turn to page 8 of Exhibit 1,  11 paragraph 14. You can read the entire paragraph  12 to yourself, but I'm going to draw your attention  13 to the middle of paragraph 14 in Exhibit 1 which  14 states, "Based in part on confidential information  15 communicated by FGIC's chief restructuring officer  16 and Lazard, financial advisors to Weil, Gotshal &amp;  17 Manges, LLP, counsel to the New York liquidation  18 bureau, D&amp;P performed an independent financial  19 analysis to determine a reasonable range of the  20 value of projected payments to the FGIC ensured  21 trusts based on the rehabilitation plan."  22 Do you see that?  23 A. I do.  24 Q. What is the confidential information  25 that was communicated to you in connection with</p>	<p style="text-align: right;">Page 32</p> <p>1 Pfeiffer  2 MR. BAIO: Okay.  3 MR. SIDMAN: -- in accordance with the  4 confidentiality order.  5 (The following portion has been deemed  6 confidential and bound under separate cover.)  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
<p style="text-align: right;">Page 31</p> <p>1 Pfeiffer  2 the analysis that you performed?  3 MR. SIDMAN: Objection. Can we -- I  4 know you have a limited time. I want to make  5 sure we do this effectively. I want to confer  6 with my colleagues for one second on this  7 particular question --  8 MR. BAIO: Oh, sure.  9 MR. SIDMAN: -- so we can resolve this  10 issue. Or if you want, we can proceed to  11 something else and we can do it on a break.  12 Whatever is easier for you.  13 MR. WEITNAUER: Take a short break.  14 MR. BAIO: Yeah, take the short break  15 now.  16 (Recess taken from 8:43 to 8:49.)  17 MR. BAIO: All right. We're back on.  18 Q. The question is what was the  19 confidential information that was communicated to  20 you in connection with the analysis that you  21 performed. And I'm pointing you to that paragraph  22 14.  23 MR. SIDMAN: The only instruction would  24 be that this part of the deposition will be  25 designated as confidential --</p>	<p style="text-align: right;">Page 33</p> <p>1 Pfeiffer - Confidential  2 A. We had discussion with FGIC and Lazard  3 with respect to some further detail associated  4 with the rehabilitation plan.  5 Q. And were those communications in  6 writing?  7 A. They did not -- I don't believe that  8 they provided us anything in writing.  9 Q. Did you provide them anything in  10 writing? And by "you" I mean Duff &amp; Phelps.  11 A. We entered the meeting with a list of  12 topics to discuss with them. I don't know if that  13 was provided to them or not.  14 Q. Did you produce the list to us?  15 A. I believe we did.  16 Q. Okay.  17 MR. BAIO: And we request it if we  18 didn't get it. I don't know whether we have  19 that list.  20 MR. KOH: I believe you do.  21 MR. BAIO: Okay.  22 Q. And did they provide responses to the  23 documents -- to the questions that appeared on the  24 list?  25 MR. KOH: Objection to form.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Pfeiffer - Confidential  2 Go ahead.  3 A. They provided responses but not in  4 writing.  5 Q. Did anyone on your team write the  6 responses down?  7 A. Not that I know of.  8 Q. Do you recall what the questions were?  9 MR. KOH: Objection to form.  10 Go ahead.  11 A. I think the discussion was consistent  12 with the outline of topics that you've seen on  13 that one page of agenda items.  14 Q. And what in confidential information  15 did you receive that you then incorporated into  16 your independent financial analysis?  17 A. The understanding with regard to how  18 the CPP and DPO works.  19 Q. Where are you looking?  20 A. I'm looking at our presentation dated  21 May 15th, 2013 and --  22 Q. Which page?  23 A. Well, I'm not looking at any particular  24 page right this moment.  25 Q. Okay.</p>	<p style="text-align: right;">Page 36</p> <p>1 Pfeiffer - Confidential  2 A. I think that generally we got a better  3 understanding of the timing, the reserves, the  4 manner in which the CPP may be adjusted upward or  5 downward.  6 Q. So prior to the meeting, you had less  7 of an understanding; after the meeting you  8 understood those matters better. Is that fair?  9 A. Yes.  10 Q. How long did that meeting take place,  11 or those meetings? Strike that.  12 Was there more than one meeting?  13 A. My understanding is there was one  14 in-person meeting and there were telephone  15 conversations as well.  16 Q. And so far as you know, there are no  17 records of those telephone communications, that  18 is, what was said by the parties to the telephone  19 communications; is that correct?  20 A. There's no written record of the  21 conversation, but there is -- there are likely  22 phone records that would support the fact there  23 was a phone conversation.  24 Q. Are there e-mail communications that  25 you know of identifying what was learned during</p>
<p style="text-align: right;">Page 35</p> <p>1 Pfeiffer - Confidential  2 A. I would say broadly that the -- that  3 our knowledge of the plan was enhanced by that  4 conversation. And the understanding as to how the  5 calculations on page 5 of our presentation were  6 derived by FGIC and -- but in response to your  7 question about the confidential information, I  8 can't point to a specific number or fact that  9 is -- that is in this presentation as a result of  10 that meeting with Lazard and FGIC.  11 Q. You responded that your knowledge of  12 the plan was enhanced by the conversation. How  13 so?  14 A. Well, we understood better how the CPP  15 works, the adjustments up or down, how the DPO  16 works, the DPO accretion, the discount rate range.  17 We understood the differences between the base  18 case and the stress case. We understood the  19 assumptions underlying the claims that are  20 incorporated in the plan, understood what's  21 included and not included in those projected  22 payments, and the potential recoveries that FGIC  23 would have.  24 Q. How did you understand better, as a  25 result of the meeting, how the CPP works?</p>	<p style="text-align: right;">Page 37</p> <p>1 Pfeiffer - Confidential  2 those conversations?  3 A. Not that I know of.  4 Q. Were you communicating with other  5 colleagues at Duff &amp; Phelps by e-mail about the  6 communications and information that you were  7 receiving from either FGIC or Lazard?  8 A. Not that I recall.  9 Q. Did you have any e-mail communications  10 with your colleagues in connection with the  11 analysis that you undertook starting in late March  12 of 2013 up through the end of May 2013?  13 A. Yes.  14 MR. KOTWICK: Object to the form.  15 Q. And did those e-mail communications  16 identify any of the confidential information that  17 was communicated to Duff &amp; Phelps by either FGIC's  18 chief restructuring officer or Lazard or the  19 financial advisors to Weil, Gotshal?  20 A. To the extent that we learned more  21 about the plan in those confidential  22 communications and those -- and that knowledge is  23 presented on -- in this presentation as of May  24 15th and the draft presentations on May 6th, those  25 may have been communicated with me via e-mail as</p>

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<p>1 Pfeiffer - Confidential  2 well.  3 Q. Do you know if those e-mails have been  4 produced?  5 A. I believe you have received -- I don't  6 know for sure, but I believe that you have  7 received the e-mail that reflects the draft  8 communication of our -- of our results as of May  9 6th. And the confidential understanding that we  10 received from FGIC is incorporated in that draft  11 presentation.  12 Q. But I'm asking whether, if you know,  13 the e-mails that identified the confidential  14 information that was communicated to Duff &amp; Phelps  15 by either FGIC's chief restructuring officer or  16 Lazard have been produced.  17 MR. KOH: Objection.  18 MR. KOTWICK: Objection to form,  19 misstates prior testimony.  20 A. I don't believe that there was any  21 e-mail that identifies in particular any  22 confidential information.  23 Q. Okay.  24 Looking back at paragraph 14 in Exhibit  25 1, you say, Based in part on confidential</p>	<p>Page 38</p> <p>1 Pfeiffer - Confidential  2 A. They refused to provide us some detail  3 that we -- that -- that we asked for, yes.  4 Q. What detail did you ask for that FGIC's  5 chief restructuring officer refused to provide  6 you?  7 A. I wouldn't pin it on FGIC's chief  8 restructuring officer, but I would say that the  9 members of the meeting, including FGIC's chief  10 restructuring officer, Lazard, and Weil, Gotshal  11 did not provide us the detailed model that went  12 behind the rehabilitation plan.  13 Q. Did they tell you why they wouldn't  14 give it to you?  15 A. I don't recall.  16 Q. Who asked for it?  17 A. Members of my team.  18 Q. And you were told that FGIC refused to  19 provide that; is that correct?  20 MR. SIDMAN: Objection.  21 A. I wouldn't choose the word "refused."  22 I would say that they -- they did not provide it.  23 Q. Is there any other confidential  24 information that you requested that FGIC did not  25 provide?</p>
<p>1 Pfeiffer - Confidential  2 information communicated by FGIC's chief  3 restructuring officer, D&amp;P performed its analysis  4 to determine a reasonable range.  5 Do you see that language?  6 A. I do.  7 Q. What confidential information was  8 communicated by FGIC's chief restructuring officer  9 that you then used or that D&amp;P used to perform its  10 financial analysis?  11 MR. SIDMAN: Objection, asked and  12 answered.  13 A. As I said previously, my understanding  14 is that it was a broader and enhanced  15 understanding of the rehabilitation plan that was  16 communicated by FGIC's chief restructuring officer  17 and Lazard, and that is what is referred to in  18 paragraph 14 of the report that you have in front  19 of you.  20 Q. Did FGIC's chief restructuring officer  21 provide answers to questions that you and your  22 colleagues posed?  23 A. To some of the questions, yes.  24 Q. Did they refuse to answer other  25 questions?</p>	<p>Page 39</p> <p>1 Pfeiffer - Confidential  2 A. Along the same lines, we did not  3 receive extensive, detailed understanding of the  4 claim assumptions, the assumptions that underlie  5 the rehabilitation plan.  6 Q. Did you ask for such information?  7 A. We would have liked to have seen that  8 information.  9 Q. Did you ask for it?  10 A. I believe we did.  11 Q. And did FGIC refuse to provide it?  12 MR. SIDMAN: Objection.  13 A. I believe they were trying to be  14 helpful in answering a lot of our questions with  15 regard to what was included in the claim  16 assumptions and what was not included. But they  17 didn't provide the actual numbers, and they did  18 not provide significant detail with regard to  19 every assumption.  20 Q. And did you ask for significant detail  21 with respect to every assumption?  22 MR. SIDMAN: Objection.  23 A. As technical people and as advisors, we  24 always like to get as much of the underlying  25 numbers as we can get. We had a discussion about</p>

<p style="text-align: right;">Page 42</p> <p>1 Pfeiffer - Confidential  2 what was appropriate, what was available to us,  3 and we appreciated the meeting we had and the  4 conversation we had. But as I previously  5 testified, we did not get the actual spreadsheets  6 behind the rehabilitation plan.</p> <p>7 Q. Did you ask for them?</p> <p>8 A. As I said before, I believe we did.</p> <p>9 Q. Who?</p> <p>10 A. Members of my team.</p> <p>11 Q. What is the basis of your belief?</p> <p>12 MR. SIDMAN: Objection.</p> <p>13 A. My belief is based on the conversations  14 I've had with my team.</p> <p>15 Q. You said, "As technical people and as  16 advisors, we always like to get as much of the  17 underlying numbers as we can get."</p> <p>18 Why is that?</p> <p>19 A. Primarily because we don't then have to  20 re-create the numbers and spend the time to  21 re-create the numbers in Excel by ourselves and go  22 into INTex and do more analysis with respect to  23 claims as well.</p> <p>24 Q. Let's go back to page 5 of Attachment 3  25 in Exhibit 1.</p>	<p style="text-align: right;">Page 44</p> <p>1 Pfeiffer - Confidential  2 are laid out. And as I said before, we added the  3 letters and the description of what those letters  4 mean on the left. That's what Duff &amp; Phelps  5 added.</p> <p>6 Q. And why did you provide this to the  7 trustees in connection with the presentations that  8 you made? And by "this" I mean page 5.</p> <p>9 A. We provided it purely to provide -- to  10 provide additional context to the trustees and  11 counsel in understanding the settlement proposal.</p> <p>12 Q. If you look on the left side of page 5,  13 it states in the first bullet: "The following  14 proposal is based on the following three main  15 assumptions, colon."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Those assumptions were assumptions by  19 FGIC; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the first assumption under the  22 first dash beneath that language is "initial cash  23 payment percentages of 17.25 percent (based on the  24 updated stress scenario pursuant to the plan)."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 43</p> <p>1 Pfeiffer - Confidential  2 Is it fair and accurate to say at least  3 so far the information that appears on this page  4 was provided by FGIC? Page 5.</p> <p>5 MR. SIDMAN: Objection, asked and  6 answered.</p> <p>7 A. Can you please repeat the question?</p> <p>8 Q. The information that appears on page 5  9 was provided by FGIC?</p> <p>10 MR. KOTWICK: Objection to form.</p> <p>11 A. As I testified to earlier, the numbers  12 on this page are from FGIC. The calculations are  13 from FGIC. The layout of the numbers I believe is  14 from FGIC. The words on the page in terms of the  15 letters to the right of the page -- A, B, C,  16 through the letter N -- are additions that were  17 provided by Duff &amp; Phelps to allow for the reader  18 to better understand the numbers themselves.</p> <p>19 Q. Okay. What else did Duff &amp; Phelps  20 supply, other than the format, in connection with  21 page 5 of the May 15th presentation?</p> <p>22 MR. SIDMAN: Objection to form.</p> <p>23 A. My understanding is that we did not  24 even provide the format in terms of the way the  25 numbers and lines associated with those numbers</p>	<p style="text-align: right;">Page 45</p> <p>1 Pfeiffer - Confidential  2 A. I do.</p> <p>3 Q. And that was provided by FGIC; is that  4 correct?</p> <p>5 A. The assumption is from FGIC, yes.</p> <p>6 Q. Yes.  7 And did you conclude that that  8 assumption is reasonable?</p> <p>9 MR. KOTWICK: Objection to the form.</p> <p>10 MR. SIDMAN: Objection.</p> <p>11 A. We drew no conclusions on this page  12 with respect to the reasonableness of any  13 assumptions.</p> <p>14 Q. Did you evaluate whether that  15 assumption was reasonable?</p> <p>16 MR. KOTWICK: Objection to the form.</p> <p>17 MR. SIDMAN: Objection.</p> <p>18 A. It wasn't the scope -- it was not the  19 scope of our analysis to evaluate whether any  20 particular assumption by FGIC was reasonable.  21 However, we looked at the reasonableness of the  22 plan overall.</p> <p>23 Q. Right. I'm not asking about the plan  24 overall right now; I'm asking about that  25 assumption.</p>

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<p style="text-align: right;">Page 46</p> <p>1 Pfeiffer - Confidential  2 Did you do any evaluation as to whether  3 that assumption was reasonable?  4 MR. KOTWICK: Objection to the form.  5 MR. SIDMAN: Objection.  6 A. Our analysis was not focused on whether  7 17.25 initial CPP was reasonable as compared to  8 16.25 or 18.25. It was not the focus of our  9 analysis.  10 Q. Therefore you didn't conclude that it  11 was unreasonable; is that correct?  12 MR. KOTWICK: Objection to form.  13 MR. SIDMAN: Objection.  14 A. That's correct.  15 Q. The next dash states, "B, base case  16 payout to policyholders of 28.5 percent based on  17 the updated base scenario pursuant to the plan  18 assuming a 15 percent discount rate, paren."  19 Do you see that?  20 A. I do.  21 Q. What is your understanding as to what  22 FGIC was referring to when it talked about a base  23 case payout?  24 MR. SIDMAN: Objection to form.  25 A. My understanding is that a base case</p>	<p style="text-align: right;">Page 48</p> <p>1 Pfeiffer - Confidential  2 A. My understanding is that when one  3 presents a plan and FGIC, in presenting its  4 rehabilitation plan, must be prudent and present  5 not only their base case but some estimation of a  6 stress case for a number of reasons, which include  7 to provide full context and disclosure to the  8 readers of that plan; and second, in this case to  9 ensure that the initial cash payment percentage is  10 consistent with the stress scenario.  11 Q. And where did you get -- come to your  12 understanding that FGIC, in presenting its  13 rehabilitation plan, must be prudent?  14 A. From my experience in reviewing plans  15 of rehabilitation and reorganization and from my  16 experience in working with many corporations in  17 presenting their plans, it is -- it is -- it is  18 typical to present more than one scenario to  19 provide the reader that kind of additional  20 context.  21 Q. And did you reach any conclusion as to  22 whether FGIC or the rehabilitators were not being  23 prudent in presenting their base case and their  24 stress case in the rehabilitation plan?  25 MR. SIDMAN: Objection to form.</p>
<p style="text-align: right;">Page 47</p> <p>1 Pfeiffer - Confidential  2 payout refers to the payout to policyholders over  3 the next 40 -- approximately 40 years. And that  4 payout under the base case means under the base  5 case of assumptions as reflected in the  6 rehabilitation plan.  7 Q. And do you understand that FGIC also  8 employed a stress case?  9 MR. SIDMAN: Objection to form.  10 A. I do.  11 Q. And indeed it's referred to in the  12 first assumption -- is that correct? -- updated  13 stress scenario?  14 A. Yes.  15 Q. What is your understanding as to what  16 the stress scenario was, or stress case?  17 A. The stress scenario relates to a more  18 stressed economic environment, including  19 assumptions for higher unemployment and a weaker  20 real estate market and additional claims made to  21 FGIC.  22 Q. And what is your understanding as to  23 why FGIC had a base case and a stress case  24 identified in the rehabilitation plan?  25 MR. SIDMAN: Objection to form.</p>	<p style="text-align: right;">Page 49</p> <p>1 Pfeiffer - Confidential  2 MR. KOTWICK: Objection to form.  3 Q. Okay. So the question was -- and there  4 were objections -- did you reach any conclusion as  5 to whether FGIC or the rehabilitator were not  6 being prudent in presenting their base case and  7 their stress case in the rehabilitation plan.  8 MR. KOH: Objection.  9 Go ahead.  10 A. No, we did not reach any conclusion  11 that they were not prudent in presenting their  12 plans.  13 Q. Did you believe that they presented the  14 stress case and the base case in good faith?  15 MR. SIDMAN: Objection.  16 A. Yes.  17 Q. Did you have any reason to believe that  18 the information contained in the base case and the  19 stress case was inaccurate?  20 MR. SIDMAN: Objection.  21 A. No.  22 Q. Do you have an understanding as to why  23 FGIC or the rehabilitators did not prepare and  24 present an upside case?  25 MR. SIDMAN: Objection.</p>

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<p>1 Pfeiffer - Confidential</p> <p>2 MR. KOH: Objection.</p> <p>3 A. Yes.</p> <p>4 Q. Why is that?</p> <p>5 A. I don't think it would be as instructive to the reader of the rehabilitation plan as the two scenarios that were presented.</p> <p>8 Q. And why is that?</p> <p>9 A. I think that the base case is presented for obvious reasons. It's the base case. And as I mentioned earlier, the stress case was needed in order to ensure that the initial CPP percentage was not too large.</p> <p>14 Q. And do you believe that -- strike that.</p> <p>15 You said that the base case is for obvious reasons the base case. What do you mean by that?</p> <p>18 A. I mean that in presenting a plan you're going to start with your base case.</p> <p>20 Q. Is a base case, in your understanding, the case that FGIC believes is the most likely to occur?</p> <p>23 MR. SIDMAN: Objection to form.</p> <p>24 MR. KOTWICK: Objection to form.</p> <p>25 MR. KOH: Objection.</p>	<p>Page 50</p> <p>1 Pfeiffer - Confidential</p> <p>2 was arrived at by FGIC as the midpoint between the 3 10 percent and the 20 percent discount rates that 4 were used in their various analyses?</p> <p>5 MR. SIDMAN: Objection to form.</p> <p>6 A. My understanding is that FGIC and Lazard arrived at 15 percent as the midpoint between 10 and 20 percent.</p> <p>9 Q. Did they tell you that they thought 10 that was reasonable?</p> <p>11 MR. SIDMAN: Objection.</p> <p>12 A. Yes.</p> <p>13 Q. And they said it was reasonable in 14 their view?</p> <p>15 A. Yes.</p> <p>16 Q. And did you say that was unreasonable?</p> <p>17 A. No.</p> <p>18 Q. Did you conclude that it was 19 unreasonable?</p> <p>20 A. No.</p> <p>21 Q. Did you challenge their use of it in 22 this calculation?</p> <p>23 MR. KOTWICK: Objection to the form.</p> <p>24 A. I wouldn't use the term "challenge."</p> <p>25 We discussed their use of the range of discount</p>
<p>1 Pfeiffer - Confidential</p> <p>2 A. I would characterize it not as most likely to occur because in any projection there is undoubtedly going to be variance from that projection as time unfolds. So I would say it is the expected case.</p> <p>7 Q. And when you say "expected," is it your understanding that it was expected by FGIC and the rehabilitators more so than the stress case?</p> <p>10 MR. SIDMAN: Objection to form.</p> <p>11 MR. KOH: Objection.</p> <p>12 A. Yes.</p> <p>13 Q. Now, going back to page 5, the assumption used by FGIC in its base case -- strike 15 that.</p> <p>16 The assumption used by FGIC in the calculation that appears on page 5 was based on the base case payout to policyholders based on a 15 percent discount rate; is that correct?</p> <p>20 MR. SIDMAN: Objection to form.</p> <p>21 A. FGIC presented -- FGIC and Lazard presented a 28.5 percent base case payout number based on what they presented to be a discount rate of 15 percent.</p> <p>25 Q. Did you understand that the 15 percent</p>	<p>Page 51</p> <p>1 Pfeiffer - Confidential</p> <p>2 rates with FGIC and Lazard.</p> <p>3 Q. Did you believe they should use a different discount rate?</p> <p>5 A. No.</p> <p>6 Q. And you didn't tell them they should use a different discount rate; correct?</p> <p>8 A. We did not tell them what discount rate to use, no.</p> <p>10 Q. And do you believe that using a 15 percent discount rate on the base case payout, the result would be a 28.5 percent calculation?</p> <p>13 MR. SIDMAN: Objection to form.</p> <p>14 MR. SIEGEL: I'm sorry, I don't know if the witness understands the question.</p> <p>16 MR. BAIO: You have an objection?</p> <p>17 Object to form and we'll move on. Okay?</p> <p>18 MR. SIEGEL: Object to form.</p> <p>19 A. I could not replicate the 28.5 percent payout based on a 15 percent discount rate. But my understanding is that that is what FGIC -- what FGIC's model resulted in.</p> <p>23 Q. And do you believe that they were accurately conveying to you what their model resulted in?</p>

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<p style="text-align: right;">Page 54</p> <p>1 Pfeiffer - Confidential  2 MR. SIDMAN: Objection.  3 A. I believe that they were accurately in  4 good faith presenting what the -- what resulted  5 from their model.  6 Q. Let's look at the chart on the right  7 where it says information points. Do you see  8 that?  9 A. I do.  10 Q. And under the words "information  11 points," the first two entries include the first  12 two assumptions -- is that correct? -- that is, a  13 17.25 percent CPP and a base case payout of 28.5  14 percent; is that correct?  15 A. That's what it says.  16 Q. Okay. And if those assumptions are  17 different, then some of the numbers that follow  18 would be different; correct?  19 MR. SIDMAN: Objection.  20 MR. KOTWICK: Objection to form.  21 A. If those numbers were different, some  22 of the numbers that follow would be different.  23 Q. The first line under what I've read  24 says, "ResCap-sponsored RMBS claim per FGIC."  25 Do you see that?</p>	<p style="text-align: right;">Page 56</p> <p>1 Pfeiffer - Confidential  2 Q. Where did you get that understanding?  3 A. As footnoted in the report, it is from  4 a memorandum of law in support of the approval of  5 the plan of rehabilitation for FGIC dated October  6 25th, 2012.  7 Q. And did you reach a conclusion as to  8 whether the rehabilitation plan that was proposed  9 as amended by FGIC was presented in a fair and  10 equitable manner in order to remove the causes and  11 conditions that made the rehabilitation proceeding  12 necessary?  13 MR. KOH: Objection.  14 MR. SIDMAN: Objection to form.  15 A. It was not the scope of our assignment  16 to draw conclusions with respect to that.  17 Q. Well, did you reach a conclusion as to  18 whether FGIC and the rehabilitators acted in good  19 faith in presenting the rehabilitation plan?  20 MR. KOH: Objection.  21 MR. KOTWICK: Objection to form.  22 MR. SIDMAN: Objection.  23 A. We believe they acted in good faith.  24 Q. And do you believe they acted in a fair  25 and equitable manner toward policyholders?</p>
<p style="text-align: right;">Page 55</p> <p>1 Pfeiffer - Confidential  2 A. I do.  3 Q. What is your understanding as to what  4 that is?  5 A. A proof of claim was filed by FGIC in  6 late 2012, and in that proof of claim there's a  7 \$1.85 billion number.  8 Q. And how did FGIC derive that number, if  9 you know?  10 MR. KOH: Objection.  11 A. My understanding of that number and its  12 derivation is listed in my report in paragraph 27.  13 Q. Thank you.  14 Can you look at paragraph 17 in your  15 report?  16 A. Yes.  17 Q. The heading leading up to that is "goal  18 of the rehabilitation plan." Do you see that?  19 You state, "The stated goal of the rehabilitation  20 plan is to treat FGIC's policyholders in a fair  21 and equitable manner in order to remove the causes  22 and conditions that made the rehabilitation  23 proceeding necessary."  24 Do you see that?  25 A. I do.</p>	<p style="text-align: right;">Page 57</p> <p>1 Pfeiffer - Confidential  2 MR. KOTWICK: Objection to form.  3 MR. KOH: Objection.  4 A. I believe they made a good-faith  5 attempt to treat FGIC's policyholders in a fair  6 and equitable manner.  7 Q. Your next sentence in paragraph 17  8 states, "The rehabilitation plan provides for all  9 of the value of FGIC, other than administrative  10 expenses and certain other costs, to go to FGIC  11 policyholders until the policyholders are paid in  12 full."  13 Do you see that?  14 A. I do.  15 Q. And that is your understanding;  16 correct?  17 A. Yes.  18 Q. And where did you get that  19 understanding?  20 A. From the rehabilitation plan.  21 Q. You then go on to state, "No claimants  22 junior to the policyholders will receive any  23 payment until the policyholders are paid in full  24 in accordance with the terms of the rehabilitation  25 plan."</p>

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<p style="text-align: right;">Page 58</p> <p>1 Pfeiffer - Confidential  2 Do you see that?  3 A. I do.  4 Q. Did you believe that was accurate at  5 the time you wrote this and today?  6 MR. KOTWICK: Objection to form.  7 A. Yes.  8 Q. All right. So going back to page 5 of  9 your May 15th presentation. Do you believe that  10 FGIC identified the ResCap-sponsored RMBS claim in  11 good faith, that is, the 1 million 850 -- I'm  12 sorry, 1 billion 850 thousand dollars?  13 MR. SIDMAN: Objection.  14 MR. KOTWICK: Objection to form.  15 A. I would correct your question, if you  16 don't mind.  17 Q. Please do. Not at all.  18 A. I think it's 1 billion 850 million.  19 Q. Okay.  20 A. But other than that, I believe they  21 presented it in good faith.  22 Q. Then it says less cost, interest,  23 et cetera. What is your understanding as to what  24 that reflects?  25 A. Exactly what the words imply.</p>	<p style="text-align: right;">Page 60</p> <p>1 Pfeiffer - Confidential  2 rehabilitator how they arrived at the 1 million --  3 1 billion 850 million dollar figure?  4 A. I believe we did.  5 Q. Did you get a satisfactory answer?  6 MR. SIDMAN: Objection.  7 MR. KOH: Objection.  8 A. Broadly speaking, we did.  9 Q. Did you think that there was anything  10 unreasonable about their analysis?  11 A. No.  12 MR. SIDMAN: Objection.  13 Q. So the item total projected claims in  14 POC, the third line in the chart we've been  15 addressing, what is your understanding as to what  16 that is?  17 A. POC is the proof of claim.  18 Q. Yes.  19 A. And my understanding is that is from  20 the proof of claim that, as I mentioned earlier,  21 is described --  22 Q. Paragraph 27?  23 A. -- in paragraph 27 as dated November  24 16th, 2012. My understanding is that is the  25 beginning basis for the numbers that are presented</p>
<p style="text-align: right;">Page 59</p> <p>1 Pfeiffer - Confidential  2 Q. What is the "et cetera"?  3 A. Nothing comes to mind right now.  4 Q. So those costs and interest and  5 whatever other factors should be reduced from the  6 ResCap-sponsored RMBS claim number; is that  7 correct?  8 MR. KOH: Objection.  9 A. Yes.  10 Q. Why is that?  11 A. Because the projected claim is the 1.85  12 of damage less the cost and interest associated  13 with that damage -- or claim, I should say, not  14 damage. They are not entitled to project a  15 claim -- to actually project a claim of the costs  16 and the interest.  17 Q. And do you believe that FGIC in good  18 faith estimated the costs and interest factors and  19 other factors that should be deducted -- should be  20 deducted from the RMBS claim to identify a total  21 projected claim number?  22 MR. KOTWICK: Objection.  23 MR. SIDMAN: Objection.  24 A. Yes.  25 Q. Did you ask the FGIC folks or the</p>	<p style="text-align: right;">Page 61</p> <p>1 Pfeiffer - Confidential  2 on this page.  3 Q. Okay. And you believe that number was  4 generated by FGIC in good faith; correct?  5 MR. SIDMAN: Objection.  6 A. Yes.  7 Q. The next entry is claims paid to date,  8 and it identifies a figure of \$344 million. Do  9 you see that?  10 A. I do.  11 Q. What is that?  12 A. That represents the claims -- the  13 claims that were already paid by FGIC to the -- to  14 the trust -- to the investors that were wrapped by  15 FGIC as of March 31st, 2013. It's the claims that  16 were paid from the beginning through the date in  17 which FGIC stopped making payments.  18 Q. And based on the work that you did, do  19 you believe that that's an accurate number for the  20 claims that were paid to date on the date that you  21 identified?  22 A. My understanding is that the number is  23 343 or 344. It's roughly accurate, yes.  24 Q. And you understand how that was  25 derived; correct? You understand what FGIC did in</p>

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<p style="text-align: right;">Page 62</p> <p>1 Pfeiffer - Confidential      2 order to reach the conclusion that the number was      3 around 344 million?      4 MR. KOTWICK: Objection.      5 MR. KOH: Objection.      6 MR. SIDMAN: Objection.      7 A. Yes.      8 Q. So that was then deducted from the      9 total projected claims in the proof of claim to      10 arrive at estimated unpaid claims; is that      11 correct?      12 A. That is correct.      13 Q. And the estimated unpaid claims number      14 is 1 billion 270 million dollars?      15 A. That's correct.      16 Q. And you believe that FGIC and the      17 rehabilitators arrived at that number in good      18 faith; correct?      19 A. Yes.      20 Q. And in your meetings with -- your      21 meetings or the meetings of your colleagues with      22 FGIC or Lazard, did you or anyone state that that      23 number is inaccurate?      24 A. No.      25 Q. Next there is the accrued and unpaid AU</p>	<p style="text-align: right;">Page 64</p> <p>1 Pfeiffer - Confidential      2 A. We tested it by looking at the same 47      3 trusts' accrued and unpaid amounts as of December      4 of 2012 and arrived at a number that is slightly      5 lower than the 789, which provided us comfort that      6 the 789 is an accurate number.      7 Q. And the final line in page -- in the      8 chart on page 5, the upper chart, is future      9 estimated claims. Do you see that?      10 A. I do.      11 Q. And what is your understanding as to      12 what the number 481 reflects?      13 A. The losses of principal and interest in      14 these 47 trusts subsequent to March 31st, 2013,      15 were approximated to be, in nominal dollars, \$481      16 million.      17 Q. Did FGIC provide you information as to      18 how they reached that number?      19 A. We had discussions around how they      20 reached that number.      21 Q. What is your understanding as to how      22 they reached that number?      23 A. They reached that number by looking at      24 the historical performance related to those trusts      25 and projected forward that performance to arrive</p>
<p style="text-align: right;">Page 63</p> <p>1 Pfeiffer - Confidential      2 claims as of 3/31/13. Do you see that?      3 A. I do.      4 Q. And what does that number reflect?      5 A. That reflects that as of March 31st,      6 2013, there's \$789 million of accrued and unpaid,      7 "accrued and unpaid" meaning that from the date      8 that FGIC stopped making payments through March      9 31st, 2013, losses accrued and FGIC did not make      10 payments that they were obligated to make      11 corresponds to those losses.      12 Q. And did FGIC identify for you, FGIC or      13 the rehabilitator, how they arrived at the number      14 of \$789 million as accrued and unpaid claims as of      15 3/31/13?      16 A. Yes.      17 Q. And how did they arrive at that number?      18 MR. KOH: Objection.      19 A. They arrived at that number by going      20 back and looking at the losses in the various 47      21 insured trusts and compiling those numbers. It's      22 consistent with our calculations of the accrued      23 and unpaid amounts.      24 Q. So you agree with that calculation; is      25 that correct?</p>	<p style="text-align: right;">Page 65</p> <p>1 Pfeiffer - Confidential      2 at an estimate of future claims.      3 Q. And do you believe that they arrived at      4 that estimated number for future claims in good      5 faith?      6 A. Yes.      7 Q. Do you believe the number is accurate?      8 A. I believe it represents a number that      9 is within the range of what could be an accurate      10 assessment.      11 Q. So then let's go to commutation      12 considerations. Can you tell me when the first      13 line, claims A&amp;U cash at initial CPP, is?      14 A. Yes.      15 Q. What is it?      16 A. FGIC, in providing this number,      17 calculates the 17.25 percent of the \$789 million      18 of accrued and unpaid claims as of March 31st,      19 2013.      20 Q. And that amount is \$136.1 million?      21 A. Yes.      22 Q. Do you believe that number is accurate?      23 A. I believe it's substantially accurate.      24 I can do the exact math. But it's -- if not      25 accurate, it's close to accurate.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. And this is an amount that the trust</p> <p>3 would receive as an initial CPP; is that correct?</p> <p>4 MR. KOTWICK: Objection to form.</p> <p>5 MR. SIDMAN: Objection.</p> <p>6 MR. KOH: Objection.</p> <p>7 A. When you say "the trust," I'm not</p> <p>8 understanding what you mean.</p> <p>9 Q. Who would receive this \$136 million</p> <p>10 figure under the rehabilitation plan?</p> <p>11 A. The investors in the 47 insured trusts.</p> <p>12 Q. Okay. And that's under the plan based</p> <p>13 on these calculations; correct?</p> <p>14 MR. KOTWICK: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. What is the next entry: claims A&amp;U</p> <p>17 base case payout less initial CPP?</p> <p>18 A. This is an amount of payout on the</p> <p>19 accrued and unpaid claims that would be paid to</p> <p>20 the 47 insured trusts over time subsequent to the</p> <p>21 initial CPP.</p> <p>22 Q. And that is a FGIC calculation;</p> <p>23 correct?</p> <p>24 A. Every -- every one of these numbers is</p> <p>25 a FGIC calculation.</p>	<p style="text-align: right;">Page 68</p> <p>1 Pfeiffer - Confidential</p> <p>2 A. Yes.</p> <p>3 Q. What is your understanding as to what</p> <p>4 that reflects?</p> <p>5 A. That reflects the portion of the future</p> <p>6 estimated claims that would be paid out to the 47</p> <p>7 insured trusts.</p> <p>8 Q. And how was it that FGIC or the</p> <p>9 rehabilitator reached the conclusion that \$137.1</p> <p>10 million is appropriate in identifying the future</p> <p>11 estimated claims of the base case payout?</p> <p>12 MR. KOH: Objection.</p> <p>13 MR. SIDMAN: Objection to form.</p> <p>14 A. You have to ask FGIC that, I'm sorry.</p> <p>15 Q. What is your understanding as to the</p> <p>16 FGIC analysis that went into reaching the \$137.1</p> <p>17 million figure for future estimated base claims?</p> <p>18 MR. KOTWICK: Objection to form.</p> <p>19 MR. SIDMAN: Objection.</p> <p>20 A. My understanding is that the claims are</p> <p>21 made at a point in time as they occur, as the</p> <p>22 losses occur, as losses are accrued over time.</p> <p>23 And then the -- then FGIC calculated, based on the</p> <p>24 CPP, the timing in which those claims would be</p> <p>25 paid in a recovery to the 47 insured trusts. And</p>
<p style="text-align: right;">Page 67</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. And do you believe that that</p> <p>3 calculation is reasonable?</p> <p>4 MR. KOTWICK: Objection to form.</p> <p>5 MR. SIDMAN: Objection.</p> <p>6 MR. KOH: Objection.</p> <p>7 A. I believe it was provided in good</p> <p>8 faith.</p> <p>9 Q. You can't say whether you view it as</p> <p>10 reasonable?</p> <p>11 A. We did not make a separate</p> <p>12 determination as to whether the \$88.8 million</p> <p>13 number was reasonable.</p> <p>14 Q. Did you believe that FGIC or the</p> <p>15 rehabilitator had an incentive to overstate that</p> <p>16 number?</p> <p>17 MR. SIDMAN: Objection.</p> <p>18 A. No.</p> <p>19 Q. You believe they had an incentive to</p> <p>20 understate that number?</p> <p>21 MR. SIDMAN: Objection.</p> <p>22 A. No.</p> <p>23 Q. The next amount is claims, future</p> <p>24 estimated claims, at base case payout of 137.1</p> <p>25 million. Do you see that?</p>	<p style="text-align: right;">Page 69</p> <p>1 Pfeiffer - Confidential</p> <p>2 FGIC estimated the payout based on a range of</p> <p>3 discount rates as we discussed earlier.</p> <p>4 Q. Does this figure include a range of</p> <p>5 discount rates or a fixed discount rate at 15</p> <p>6 percent?</p> <p>7 MR. SIDMAN: Objection.</p> <p>8 A. This figure of 137 is based on the</p> <p>9 midpoint of those ranges of 15 percent.</p> <p>10 Q. Okay. And do you believe that the</p> <p>11 calculation that was done by FGIC and/or the</p> <p>12 rehabilitator was done in good faith?</p> <p>13 MR. SIDMAN: Objection.</p> <p>14 A. I do.</p> <p>15 Q. And do you believe it was reasonable?</p> <p>16 MR. KOTWICK: Objection to form.</p> <p>17 A. We did not make a separate</p> <p>18 determination as to whether the number 137 was</p> <p>19 reasonable.</p> <p>20 Q. And that's because you weren't asked</p> <p>21 to?</p> <p>22 A. That's correct.</p> <p>23 Q. And do you know of any reason why FGIC</p> <p>24 or the rehabilitator would either overstate or</p> <p>25 understate that number?</p>

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<p style="text-align: right;">Page 70</p> <p>1 Pfeiffer - Confidential  2 A. I know of no such reason.  3 Q. There then is the total of the claims  4 AU base case payout less initial CPP, and the  5 future estimated claims at base case payout, that  6 is, the sum of the 88.8 million and the 137.1  7 million.  8 Do you see that?  9 A. I do.  10 Q. That's \$225.8 million; correct?  11 A. Correct.  12 Q. And what does that number reflect, so  13 far as you understand according to FGIC?  14 MR. KOH: Objection.  15 MR. SIDMAN: Objection to form.  16 A. That represents the total of the  17 payment as of -- as -- the initial payment -- the  18 initial cash payment percentage plus the value  19 associated with the payment subsequent to the  20 initial CPP.  21 Q. And to that, in order to determine what  22 the full consideration is that would be received  23 by the inventors in the 47 trusts, do you add the  24 136.1, the initial CPP?  25 MR. KOTWICK: Objection to the form.</p>	<p style="text-align: right;">Page 72</p> <p>1 Pfeiffer - Confidential  2 estimated future payments discounted, tells you on  3 a discounted basis how much the investors would  4 receive under this scenario; is that correct?  5 MR. SIDMAN: Objection to form.  6 A. It tells you -- it tells you -- really,  7 I mean, it's 136 plus 225. As we discussed, it  8 is -- reflects some level of discount associated  9 with the future payments. I don't know how to  10 more accurately described what FGIC did.  11 Q. What is your understanding as to what  12 they did? What does the sum reflect? What does  13 136.1 plus 225.8 reflect?  14 MR. SIDMAN: Objection.  15 MR. KOH: Objection.  16 Q. As you understand it.  17 A. I would not -- I would not add those  18 two numbers to reflect on anything. And as  19 they're presented here, they're not added either.  20 Q. Okay.  21 A. So I wouldn't -- I wouldn't have taken  22 that step of adding those two numbers.  23 Q. Is it your understanding that the 136  24 represents the cash at the initial CPP that the  25 investors in the 47 trusts would receive under the</p>
<p style="text-align: right;">Page 71</p> <p>1 Pfeiffer - Confidential  2 MR. SIDMAN: Objection to the form.  3 A. Can you repeat the question, please?  4 Q. Yes. In order to determine what the  5 complete consideration is under the plan, based on  6 these calculations, do you add 136.1 to 225.8?  7 A. I'm sorry, can you repeat the first  8 part of that question?  9 (Record read as follows: And to that,  10 in order to determine what the full  11 consideration is that would be received by the  12 inventors in the 47 trusts, do you add the  13 136.1, the initial CPP?)  14 A. I think it depends how you refer to the  15 word "consideration."  16 Q. How about payment?  17 A. The nominal dollars of the payment is  18 not reflected by these numbers.  19 Q. Right. These are the discounted  20 numbers -- correct? -- assuming a 15 percent  21 discount rate?  22 A. The future payments are discounted by  23 the 15 percent discount rate.  24 Q. So the sum of the cash at initial CPP  25 of 136.1 plus the 225.8 million, which reflects</p>	<p style="text-align: right;">Page 73</p> <p>1 Pfeiffer - Confidential  2 plan --  3 A. Yes.  4 Q. -- based on these calculations? Is it  5 your understanding that the 225.8 million is  6 FGIC's estimation under the assumptions identified  7 here of what the investors in the 47 trusts would  8 receive over time, discounted by 15 percent?  9 MR. SIDMAN: Objection to form.  10 MR. KOTWICK: Objection to form.  11 A. Yes, except it's not just -- you just  12 discount the number by 15 percent. That's not the  13 way the discount rate calculations work but...  14 Q. They used a 15 percent discount rate.  15 Is that more accurate?  16 A. Yes.  17 Q. And the answer to the question is that  18 that's what the 225.8 represents?  19 MR. SIDMAN: Objection to form.  20 A. It's been represented to us, as you see  21 on the letters to the right, that that's what  22 FGIC's calculations were meant to represent.  23 Q. And you think that FGIC did that in  24 good faith?  25 MR. SIDMAN: Objection.</p>

<p style="text-align: right;">Page 74</p> <p>1 Pfeiffer - Confidential  2 A. I think that FGIC presented these  3 numbers to us in good faith, yes.  4 Q. And FGIC had no incentive to overstate  5 that number?  6 MR. SIDMAN: Objection.  7 Q. So far as you know?  8 A. No.  9 MR. BAIO: Let's take a short break.  10 (Recess taken from 9:58 to 10:21.)  11 MR. SIDMAN: Earlier today and over the  12 last few days, there have been discussions  13 with respect to a particular document that has  14 been withheld because that document was  15 created in connection with the mediation that  16 led to the eventual FGIC settlement in this  17 case. It was withheld on the basis that it  18 was within the confidentiality provisions of  19 the mediation order in this case.  20 However, in light of the testimony of  21 Mr. Pfeiffer today that he relied on the  22 information contained in this particular  23 document that I'm going to produce in a  24 minute, which -- in connection with his  25 preparation of the expert report of Allen M.</p>	<p style="text-align: right;">Page 76</p> <p>1 Pfeiffer - Confidential  2 the court and whether or not we can do  3 something this afternoon.  4 MR. BAIO: Fair enough. I have no idea  5 right now, but we will consider and get back  6 to you. We don't want to waste the time of  7 the attorneys or the court, if it can be  8 avoided.  9 MR. SIEGEL: Exactly.  10 MR. BAIO: We're with you on that.  11 I have been handed a bunch of copies of  12 a single-page document, and that's the  13 document that you're referring to?  14 MR. SIDMAN: Yes.  15 MR. BAIO: And we of course reserve all  16 of our rights in connection with the use of  17 the document, and we will be asking questions  18 about it during this deposition. Thank you.  19 MR. SIDMAN: Right.  20 MR. GOODMAN: Can we get a copy?  21 MR. BAIO: Sure. Yeah.  22 I'm going to ask the reporter to mark  23 as the next exhibit a two-page document with  24 the Bates number DUFF-MS 00001 to 00002. That  25 will be Pfeiffer Exhibit 2.</p>
<p style="text-align: right;">Page 75</p> <p>1 Pfeiffer - Confidential  2 Pfeiffer dated July 19th, 2013, we have  3 agreed -- we will agree to produce this  4 document.  5 We still believe that the document  6 itself is subject to the confidentiality  7 provisions of the mediation order, and we  8 reserve our rights in that regard. And to the  9 extent -- and we're still going to seek relief  10 from the court to give us comfort and  11 protection with respect to the production of  12 this document and that it's not a waiver of or  13 violation of that mediation order.  14 We are designating it highly  15 confidential in this matter, and we will still  16 follow up with the court to resolve this  17 issue.  18 MR. SIEGEL: Just one thing with regard  19 to that. Given the fact the court has asked  20 us all to submit letter briefs by 5 o'clock  21 today, it might be useful for us to know --  22 and I don't know if you know at this moment;  23 we have people running around doing things --  24 we should know whether or not this alters your  25 view on what it is that we ought to get from</p>	<p style="text-align: right;">Page 77</p> <p>1 Pfeiffer - Confidential  2 (Pfeiffer Exhibit 2, e-mail from D&amp;P to  3 Travers, Bates-stamped DUFF-MS 00001 to 00002,  4 marked for identification.)  5 (Discussion off the record.)  6 Q. Mr. Pfeiffer, have you seen Exhibit 2  7 before?  8 A. Yes.  9 Q. What is it?  10 A. It is an e-mail sent by a member of my  11 team at Duff &amp; Phelps to Tim Travers at FGIC  12 related to the initial diligence discussion topics  13 in advance of the meeting with FGIC and Lazard.  14 Q. And when was the meeting with FGIC and  15 Lazard?  16 A. The beginning of April 2013.  17 Q. And is the list of diligence discussion  18 topics on the second page of this exhibit?  19 A. It is.  20 Q. Who prepared them?  21 A. Members of my team.  22 Q. Did you participate in preparing them?  23 A. I had input.  24 Q. And you sent this to FGIC prior to the  25 meeting in early April with the FGIC</p>

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<p>1 Pfeiffer - Confidential  2 representatives; is that correct?  3 A. My understanding is that it was sent to  4 FGIC prior to the meeting.  5 Q. Was there a rehabilitator  6 representative at the meeting as well as FGIC, if  7 you know?  8 A. I don't know.  9 Q. Were you at the meeting?  10 A. I was not.  11 Q. Who was at the meeting?  12 A. Brendan Murphy, Alice Chong, and I'm  13 not sure if there was a third member of our team  14 there.  15 Q. And who was there -- who else was  16 there, so far as you understand?  17 A. My understanding is that Tim Travers  18 was there.  19 Q. Who is he?  20 A. From FGIC. Members of the Lazard team  21 were there, and counsel for the trustees were  22 there. Counsel was there, I should say.  23 Q. One person?  24 A. No, but I used the word "counsel" as a  25 singular term.</p>	<p>Page 78</p> <p>1 Pfeiffer - Confidential  2 that Mr. Pfeiffer relied on this information  3 in connection with producing his report, I'll  4 allow him to answer it; if he did not, then  5 I'm going to instruct him not to answer in  6 connection with the confidentiality provisions  7 of the mediation order.  8 Q. Well, sir, did you rely on any --  9 MR. KOH: Just a moment. Mr. Pfeiffer,  10 did you understand Mr. Sidman's instructions?  11 THE WITNESS: Yes.  12 MR. KOH: You may answer. My objection  13 on other grounds to the form stand for the  14 record, please.  15 MR. BAIO: I'm sorry, say that again?  16 MR. KOH: I had made an objection to  17 form, and I would like that to continue.  18 MR. BAIO: Oh, okay.  19 Q. Well, you had said earlier that as a  20 result of the meeting you got certain  21 clarification and a deeper understanding of some  22 of the analyses that were undertaken by FGIC in  23 connection with the calculations that appear on  24 page 5; correct?  25 A. I think that our meeting was focused</p>
<p>1 Pfeiffer - Confidential  2 Q. I see. Sometimes it's a plural term.  3 A. That's true.  4 I think that more than one person was  5 there from counsel.  6 Q. And were the diligence discussion  7 topics discussed at the meeting that you didn't  8 attend, so far as you understand?  9 A. Yes.  10 Q. And were answers given to the questions  11 that were posed?  12 A. Yes.  13 Q. Were those answers communicated to you?  14 A. Yes.  15 Q. Let's take the first bullet: high-  16 level difference and assumptions between base  17 scenario and stress scenarios. Do you see that?  18 A. Yes.  19 Q. And then there are three circles  20 beneath that. Were those discussed, that is, the  21 bullet and the language that appears next to the  22 three circles, at the meeting, so far as you know?  23 MR. SIDMAN: Counsel --  24 MR. KOH: Objection.  25 MR. SIDMAN: Counsel, to the extent</p>	<p>Page 79</p> <p>1 Pfeiffer - Confidential  2 not on page 5 in particular but on the  3 rehabilitation plan.  4 Q. And you received information as a  5 result of the meeting with the FGIC folks that you  6 incorporated in your analysis that appears in the  7 report, which is marked as Exhibit 1; correct?  8 A. Correct.  9 Q. The first bullet: a high-level  10 difference in assumption between base scenario and  11 stress scenario and then three circles. What did  12 your colleagues learn about that, to the extent  13 you know?  14 MR. SIDMAN: Same instruction.  15 MR. BAIO: Not to answer?  16 MR. SIDMAN: No, to answer only to the  17 extent he used that information in connection  18 with the report or relied on that information  19 in connection with the report.  20 MR. BAIO: Well, we know he relied on  21 information that was received to include in  22 the report, but fine.  23 Q. Did they give you any clarifications on  24 the base scenario and stress scenario at that  25 meeting?</p>

<p>1 Pfeiffer - Confidential</p> <p>2 MR. KOH: Objection to form.</p> <p>3 Go ahead.</p> <p>4 A. Yes.</p> <p>5 Q. What did they tell you?</p> <p>6 MR. KOH: Objection to form.</p> <p>7 Go ahead.</p> <p>8 A. They provided a general -- better</p> <p>9 understanding of the macroeconomic factors and how</p> <p>10 those factors are utilized in the base scenario</p> <p>11 versus the stress scenario.</p> <p>12 And, as listed here on the discussion</p> <p>13 topics, they provided responses to our question</p> <p>14 related to Jefferson County case and related to</p> <p>15 the performance of regional economies.</p> <p>16 Q. And what did they say in that regard?</p> <p>17 MR. KOH: Objection.</p> <p>18 Go ahead and answer.</p> <p>19 A. They provided additional context with</p> <p>20 regard to the macroeconomic factors for the base</p> <p>21 and the stress scenario, and they told us that</p> <p>22 there is not a specific assumption incorporated in</p> <p>23 the rehabilitation plan with respect to claims</p> <p>24 resulting from the Jefferson County case.</p> <p>25 Q. What was the Jefferson County case?</p>	<p>Page 82</p> <p>1 Pfeiffer - Confidential</p> <p>2 payments resulting from that plan because the</p> <p>3 types of issues described in this discussion topic</p> <p>4 page, including the Jefferson County case and</p> <p>5 regional economies like Detroit, were not included</p> <p>6 explicitly in the plan.</p> <p>7 Q. Were such events included in the stress</p> <p>8 scenario, so far as you understand?</p> <p>9 A. No.</p> <p>10 Q. There's then detail of CPP schedule</p> <p>11 under the base scenario by year. Did your</p> <p>12 colleagues receive what they believed were good-</p> <p>13 faith responses to that inquiry?</p> <p>14 MR. SIDMAN: Same instruction.</p> <p>15 A. No.</p> <p>16 Q. They did not receive good-faith</p> <p>17 responses to that request. Is that your</p> <p>18 testimony?</p> <p>19 A. My testimony is that we were told in</p> <p>20 good faith that they will not provide us the year-</p> <p>21 by-year schedule.</p> <p>22 Q. And did they tell you why they wouldn't</p> <p>23 give you the year-by-year schedule?</p> <p>24 A. I assume it was confidential or work</p> <p>25 product or both.</p>
<p>1 Pfeiffer - Confidential</p> <p>2 A. It's a case that Jefferson County has</p> <p>3 brought against FGIC.</p> <p>4 Q. Did your colleagues tell you, in words</p> <p>5 or substance, that FGIC was forthcoming in</p> <p>6 responding to this question, or these questions?</p> <p>7 MR. SIDMAN: Objection to form.</p> <p>8 A. FGIC was forthcoming in response to</p> <p>9 these questions.</p> <p>10 Q. There's a reference to the performance</p> <p>11 of regional economies, such as Detroit and Puerto</p> <p>12 Rico. Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. And what is your understanding as to</p> <p>15 what the responses were on that?</p> <p>16 MR. SIDMAN: Same instruction.</p> <p>17 A. My understanding is that the response</p> <p>18 was that there was no -- there was no assumption</p> <p>19 of a significant change in the regional economies</p> <p>20 baked into the rehabilitation plan. So the recent</p> <p>21 filing in Detroit, as an example, that meaningful</p> <p>22 downside scenario was not baked into the</p> <p>23 rehabilitation plan.</p> <p>24 And therefore there is additional risk</p> <p>25 associated with the plan and the projected</p>	<p>Page 83</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. But did they say that, so far as you</p> <p>3 know from your colleagues who were there?</p> <p>4 A. I don't know.</p> <p>5 Q. Did they provide you other confidential</p> <p>6 information?</p> <p>7 MR. SIDMAN: Objection.</p> <p>8 A. As described today, they provided us</p> <p>9 additional context and enhanced understanding --</p> <p>10 an enhanced understanding of the plan that</p> <p>11 included confidential references.</p> <p>12 Q. The next bullet is magnitude of risks</p> <p>13 associated with the scenarios including, and then</p> <p>14 there are a series of open circles. Do you see</p> <p>15 that?</p> <p>16 A. I do.</p> <p>17 Q. First, did they -- the FGIC</p> <p>18 representatives respond to the inquiries on those</p> <p>19 subjects, so far as you know?</p> <p>20 MR. SIDMAN: Same instruction with</p> <p>21 respect to this entire bullet section.</p> <p>22 A. Yes.</p> <p>23 Q. And did your colleagues conclude, as</p> <p>24 they reported to you, that the responses were in</p> <p>25 good faith?</p>

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<p style="text-align: right;">Page 86</p> <p>1 Pfeiffer - Confidential  2 A. Yes.  3 Q. And did the FGIC folks withhold  4 anything in response to these questions, so far as  5 you know?  6 A. No.  7 Q. They did not, so far as you know?  8 A. They did not withhold responses with  9 regard to these questions, as far as I know.  10 Q. Do you know what any of the responses  11 were in connection with the open circles?  12 A. Yes.  13 Q. What are they? Go through them in  14 order.  15 A. They provided some additional context  16 with regard to the risk associated with the  17 projected investment income, that although the  18 plan assumes a 3.25 targeted annual return there  19 is risk associated with that number. The number  20 may not reach 3.25, and if it does not reach 3.25,  21 the cash flow available to make payments to  22 investors would be reduced.  23 The same is true with --  24 Q. I'm sorry, we're going to go through  25 each one, but I want to go one at a time.</p>	<p style="text-align: right;">Page 88</p> <p>1 Pfeiffer - Confidential  2 assumption. What is that and what did you learn  3 from your colleagues about the discussion on that  4 subject?  5 A. I understood that there was risk  6 associated with the collection of payments. These  7 are payments -- they are premium payments made --  8 expected to be made to FGIC despite the fact that  9 FGIC was not performing for these trusts. And  10 therefore there was risk that the collection  11 amounts would not amount to the premium  12 collections that are included in the  13 rehabilitation plan.  14 Q. And the rehabilitation plan itself  15 contemplated a 10 percent reduction assumption in  16 connection with the collection of premiums; is  17 that correct?  18 A. That is correct.  19 Q. Did you think that was a reasonable  20 assumption?  21 A. I thought that there was risk  22 associated with that assumption, similar to the  23 way that we felt that there was risk associated  24 with the projected investment income assumption.  25 Q. Did you quantify the risk: more likely</p>
<p style="text-align: right;">Page 87</p> <p>1 Pfeiffer - Confidential  2 A. Okay. That's the first one.  3 Q. Did they quantify the risk in any way  4 that the targeted annual returns or potential  5 increases would not equal 3.25 percent?  6 A. No.  7 Q. Did they identify any scenario in which  8 the amount could exceed the targeted annual  9 returns?  10 A. No.  11 Q. Did they say that the 3.25 percent was  12 reasonable?  13 A. I don't recall if they used that term.  14 Q. Did you understand that they believed  15 that the 3.25 percent figure was reasonable in  16 that context?  17 MR. KOTWICK: Objection to the form.  18 MR. SIDMAN: Objection to the form.  19 MR. KOH: Objection.  20 A. Yes.  21 Q. You understood that, that they thought  22 it was a reasonable number; correct?  23 A. Yes.  24 Q. Let's go to the next one, collection of  25 premiums above the 10 percent reduction</p>	<p style="text-align: right;">Page 89</p> <p>1 Pfeiffer - Confidential  2 than not, anything along those lines?  3 A. No.  4 Q. Just that there was risk that in fact  5 the collection of premiums could be lower by FGIC;  6 is that correct?  7 A. Yes.  8 Q. And what standard did you use? "Could  9 be" meaning a 1 percent chance? a 20 percent  10 chance? What standard did you use in evaluating  11 that there was a risk that the collection of  12 premiums would be less?  13 MR. KOH: Objection to form.  14 A. We did not use any particular standard,  15 just had a conversation about it and discussed it  16 internally as well and believed that while the 10  17 percent reduction is an assumption that's made in  18 the plan it could very well be that the reduction  19 in premiums collected could be 20, 30, 40 percent.  20 We didn't -- we didn't quantify the reduction  21 further than that, and we didn't spend significant  22 amount of time analyzing that issue.  23 Q. Now, to the extent that the collection  24 of premiums went down, that would mean that the  25 payment of premiums went down -- correct? -- by</p>

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<p style="text-align: right;">Page 90</p> <p>1 Pfeiffer - Confidential  2 the paying parties?  3 A. That would mean that the trusts would  4 be paying less.  5 Q. And they could be paying as little as  6 zero?  7 A. That's correct.  8 Q. But you believed that FGIC and the  9 rehabilitator believed in good faith that the 10  10 percent reduction assumption was reasonable; is  11 that correct?  12 A. I believe that that was their good-  13 faith estimate, yes.  14 Q. And as a general matter, their  15 estimates, you believe, were made in good faith;  16 is that correct?  17 A. Yes.  18 Q. Consistent with whatever the statutory  19 requirements were under the relevant statutes; is  20 that correct?  21 MR. KOH: Objection.  22 MR. KOTWICK: Objection to form.  23 MR. SIDMAN: Objection.  24 A. I believe their estimates were made in  25 good faith.</p>	<p style="text-align: right;">Page 92</p> <p>1 Pfeiffer - Confidential  2 A. No.  3 Q. You just determined that it could be  4 higher?  5 MR. SIDMAN: Objection to form.  6 Q. Those expenses?  7 A. We noted that it could be -- there's a  8 risk it could be higher.  9 Q. Was there a potential benefit that they  10 could be lower?  11 A. There's always that possibility, but I  12 would say in connection with all these subbullets  13 they're identified by FGIC as risks. And we also  14 thought there was more downside possibilities than  15 there was upside.  16 Q. Did you base that on your judgment?  17 A. Yes.  18 Q. Continue.  19 A. The limitations or reduction of the NOL  20 usage is -- we had a discussion about the fact  21 that the plan assumes that they would continue to  22 be able to use the NOLs. It's elaborated on in my  23 report along with the other risks that are listed  24 on this page.  25 But we had a discussion about the fact</p>
<p style="text-align: right;">Page 91</p> <p>1 Pfeiffer - Confidential  2 Q. Why don't we go through the rest of  3 those open circles. Tell me what you learned from  4 your colleagues in connection with the  5 conversations with FGIC, starting with increases  6 in operating expenses and continuing down.  7 MR. SIDMAN: Same ongoing instruction  8 in connection with this line of questioning.  9 A. With respect to the third subbullet --  10 Q. Yes.  11 A. -- we had discussion around the fact  12 that there was a risk associated with the fact  13 that the operating expenses, as projected in the  14 plan, could increase. And while they were  15 comfortable with the level of operating expenses  16 in the plan, there was -- there was a risk that  17 they were going to be higher.  18 Q. Did they quantify that risk?  19 A. Not in the conversations we had with  20 them.  21 Q. Did you ever learn that they quantified  22 that risk?  23 A. I do not know.  24 Q. Did you and your colleagues quantify  25 that risk, percentage of likelihood?</p>	<p style="text-align: right;">Page 93</p> <p>1 Pfeiffer - Confidential  2 that if they get a ruling that does not allow them  3 to use this NOL that would create additional  4 downside risk associated with the cash flows  5 projected in the rehabilitation plan.  6 Q. Did they put any percentages on that  7 risk?  8 MR. KOH: Objection.  9 Q. Or quantify it in any way?  10 MR. KOH: Objection.  11 A. There are some quantifications of that  12 risk that are referred to in paragraph 49 of my  13 expert report. There was no further  14 quantification beyond that.  15 Q. No percentages of likelihood of  16 outcomes; is that correct?  17 A. That's correct.  18 Q. Going back to Exhibit 2. There are  19 three more open circles. Can you go through them  20 and tell me the information that you or your  21 colleagues learned in connection with the  22 communications with FGIC on those subjects at the  23 April meeting?  24 MR. SIDMAN: Same instruction.  25 A. My understanding is that we discussed</p>

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<p style="text-align: right;">Page 94</p> <p>1 Pfeiffer - Confidential  2 the reinsurance and the other commutations as  3 summarized in paragraph 51 of my expert report.  4 Q. Is it your general understanding that  5 in connection with other commutations FGIC enters  6 into agreements for commutation when it believes  7 that the amount paid is more than offset by the  8 amount that it does not have to pay in the future?  9 MR. KOH: Objection.  10 MR. SIDMAN: Objection to form.  11 Q. I'll try it again.  12 Looking at your paragraph 51, you are  13 identifying six -- you identify at the end of it  14 six then-pending CDS commutation agreements that  15 were executed. Do you see that?  16 A. Yes.  17 Q. As a result of those commutations,  18 which were approved -- were they approved, first  19 of all?  20 A. Yes.  21 Q. And is it your evaluation that as a  22 result of those commutations FGIC's ability to pay  23 an initial CPP increased, decreased, or remained  24 the same?  25 A. My understanding is that the plan --</p>	<p style="text-align: right;">Page 96</p> <p>1 Pfeiffer - Confidential  2 Q. Add?  3 A. -- to add.  4 Q. So there was nothing else said about  5 loss adjustment expense estimates in the meeting  6 that you incorporated in your evaluation?  7 MR. SIDMAN: Objection to form.  8 A. Not that I recall.  9 Q. So the discussions regarding the  10 illustrative discount rate of 10 to 20 percent,  11 what did you discuss and what did you learn as a  12 result of those discussions?  13 MR. SIDMAN: Same instruction with  14 respect to these questions and this bullet.  15 Do you understand my instruction?  16 THE WITNESS: If you would like to  17 repeat it, you can.  18 MR. SIDMAN: That's fine. I only ask  19 that you provide information that you relied  20 on in connection with preparing your analysis  21 that is reflected in the Exhibit 1, the expert  22 report of Allen Pfeiffer.  23 Q. With that whatever it is, can you  24 answer the question?  25 A. I can.</p>
<p style="text-align: right;">Page 95</p> <p>1 Pfeiffer - Confidential  2 the rehabilitation plan assumed that the  3 commutations were to be approved, and therefore  4 the approval itself did not impact the forecasts  5 provided in the rehabilitation plan.  6 Q. It did not have any negative impact;  7 correct?  8 A. The approval did not have any negative  9 impact, no.  10 Q. Let's continue back with the open  11 circles. Let me know what else you or your  12 colleagues learned in the conversations with FGIC  13 in April of 2013 on the subjects identified that  14 you used in your analysis.  15 A. That's -- I think I fairly summarized  16 what we learned on the first three bullet points.  17 Q. And I'm talking about the last three;  18 right? Is that what we're up to?  19 A. I think we're up to discount rate, but  20 if you want to --  21 Q. You identified all of these? Were  22 anything else that you learned on reinsurance  23 payments received, commutation payment amounts,  24 and loss adjustment expense estimate?  25 A. I have nothing else to --</p>	<p style="text-align: right;">Page 97</p> <p>1 Pfeiffer - Confidential  2 Q. Okay. What's the answer?  3 A. We had discussion around why FGIC and  4 Lazard in particular believed the discount rate of  5 10 to 20 percent was a reasonable discount rate.  6 Q. And what did you learn in that regard?  7 A. We learned that they had a high degree  8 of comfort with regard to its reasonableness.  9 Q. And what did they say in that regard  10 that led you to the conclusion that they had a  11 high degree of confidence in that range?  12 MR. KOTWICK: Objection to form.  13 A. They said that an investor would  14 require a rate of return well in excess of 10  15 percent for the types of cash flows that are  16 projected in the rehabilitation plan, given the  17 level of uncertainty associated with those cash  18 flows.  19 Q. Did they say anything else?  20 A. There was certainly discussion around  21 the subject, but I think that what I've just  22 stated fairly summarizes their viewpoint with  23 regard to discount rate and how it's reflective of  24 the level of risk associated with the cash flows  25 and the, therefore, expected return that an</p>

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<p style="text-align: right;">Page 98</p> <p>1 Pfeiffer - Confidential  2 investor would require in receipt for those  3 expected cash flows.</p> <p>4 Q. What about the next bullet: updates,  5 if any, on the following unknown amounts. The  6 first open circle is potential proceeds and timing  7 related to material litigation, excluding ResCap-  8 related.</p> <p>9 First, why was ResCap-related excluded?</p> <p>10 MR. SIDMAN: Same instruction with  11 respect to this bullet point and all the  12 bullet points underlying this bullet point.</p> <p>13 MR. KOH: And I object to the form of  14 the question.</p> <p>15 MR. SIDMAN: Object to the form.</p> <p>16 A. The ResCap-related litigation was  17 excluded I believe because we don't need to -- we  18 didn't think it was appropriate for them to be  19 providing additional context in this meeting on  20 the ResCap-related litigation.</p> <p>21 Q. Why is that?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Did you make the decision to exclude  24 the ResCap-related material litigation from this  25 inquiry?</p>	<p style="text-align: right;">Page 100</p> <p>1 Pfeiffer - Confidential  2 the decision to exclude the ResCap-related  3 material litigation from this inquiry?)</p> <p>4 MR. KOH: Why don't you answer that  5 question "yes" or "no."</p> <p>6 A. I don't believe I did, no.</p> <p>7 Q. What was said at the meeting about  8 potential proceeds and timing related to material  9 litigation, excluding the ResCap-related matter?</p> <p>10 MR. SIDMAN: Counsel, this is also --  11 in addition to the mediation order, there are  12 also confidentiality issues relating to offers  13 and offers of settlement in connection with  14 potential resolution of ongoing litigation.  15 And I just don't -- sitting here right now in  16 response to your question, I don't know what  17 was said with respect to that.</p> <p>18 But I also know that -- I believe that  19 there was a confidentiality agreement entered  20 into in connection with this meeting that  21 we're talking about. I don't want the witness  22 to reveal anything that is confidential with  23 respect to those particular discussions.</p> <p>24 And so we can either take a break now  25 and I can talk to him about it outside or you</p>
<p style="text-align: right;">Page 99</p> <p>1 Pfeiffer - Confidential</p> <p>2 MR. KOTWICK: I'm going to object to  3 the form and instruct the witness in his  4 answer to exclude any communications, if any,  5 he might have had with his counsel or the  6 trustees' counsel concerning that matter.</p> <p>7 MR. BAIO: On what basis do you  8 instruct him?</p> <p>9 MR. KOTWICK: Certainly, with respect  10 to his counsel, the attorney-client privilege,  11 and, to the extent that he had communications  12 with the trustees' counsel, work product. You  13 can ask him if he had any communication. I  14 don't know that he did. But I would ask him  15 to exclude, to the extent he did have those  16 communications.</p> <p>17 MR. BAIO: Well, I'm just asking  18 whether he made the decision. We know it's  19 excluded. I don't really see where that's  20 implicating the attorney-client privilege of  21 anyone.</p> <p>22 MR. KOH: May I have the question  23 again, please.</p> <p>24 MR. BAIO: Okay.</p> <p>25 (Record read as follows: Did you make</p>	<p style="text-align: right;">Page 101</p> <p>1 Pfeiffer - Confidential  2 can move on and we can do it at the next  3 available break and have a response for you  4 then.</p> <p>5 MR. BAIO: I don't want to belabor the  6 record. This is about discussion topics  7 relating to valuation issues. And, you know,  8 we have a confidentiality agreement in this  9 case, and it's an order.</p> <p>10 If they said something about potential  11 proceeds affecting recoveries or not affecting  12 recoveries, I think it's critical and that you  13 can't have it both ways.</p> <p>14 But all of that having been said, let  15 me just pose the question. You do your -- you  16 instruct however you want -- okay? -- and then  17 we'll take a break later and come back to it.</p> <p>18 Q. Independent from what you were told,  19 were you told anything about the discussion of  20 potential proceeds and timing related to material  21 litigation that came up during the meeting with  22 FGIC in April of 2013?</p> <p>23 A. Yes.</p> <p>24 Q. And what were you told?</p> <p>25 MR. SIDMAN: In light of my previous</p>

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<p style="text-align: right;">Page 102</p> <p>1 Pfeiffer - Confidential  2 statement, I instruct him not to answer that  3 question. We're happy to revisit it on a  4 break.  5 Q. And the same question with respect to  6 the potential proceeds and timing from FGIC U.K.  7 separation. First, were you informed of whatever  8 was discussed on that subject in the April 13,  9 2013, meeting?  10 A. I don't recall conversation about that  11 topic.  12 Q. Let's go back to page 5 of Attachment 3  13 to Exhibit 1, the May 15th presentation, about  14 which you've been providing some testimony.  15 You'll see that another assumption, on the  16 left-hand side with the letter J, is, quote,  17 haircut of 40 percent on unpaid payout claim  18 estimates.  19 Do you see that?  20 A. Yes.  21 Q. Who selected the word "haircut"?  22 MR. SIDMAN: Objection.  23 A. I don't know.  24 Q. Is it your understanding that FGIC  25 called it a haircut?</p>	<p style="text-align: right;">Page 104</p> <p>1 Pfeiffer - Confidential  2 40 percent on unpaid payout claim estimates?  3 A. So consistent with what I have listed  4 in my expert report -- I believe it's in Footnote  5 23 on page 16 -- that our general understanding as  6 a result of that conversation with FGIC is that  7 the 40 percent reduction reflects a discount for  8 receiving the commutation payment upon execution  9 of a settlement agreement in consideration of a  10 timing of claims and payments specifically related  11 to FGIC-insured trust policy claims under the  12 rehab plan.  13 Q. And what is your understanding as to  14 what that means?  15 A. My understanding is that these  16 FGIC-insured trust policy claims were claims that  17 were front loaded, meaning they were closer to the  18 initial date than the average claims in the  19 rehabilitation plan. They were more in the next  20 few years than they were in the outer years of the  21 plan.  22 So because those claims were front-  23 loaded and the recoveries or payments under the  24 rehab plan were extended well beyond that into the  25 outer years, there is an additional discount</p>
<p style="text-align: right;">Page 103</p> <p>1 Pfeiffer - Confidential  2 MR. SIDMAN: Objection.  3 A. I don't know.  4 Q. And finally, did Duff &amp; Phelps select  5 the word "haircut" to articulate this assumption?  6 MR. SIDMAN: Objection.  7 A. I don't know how the term "haircut"  8 came about.  9 Q. And what is your understanding as to  10 what the haircut is?  11 A. Well, the 40 percent, from a -- from a  12 mathematical and technical perspective, the  13 haircut of 40 percent -- 40 percent is the inverse  14 of the 60 percent. 1 minus 60 percent is 40  15 percent. So the factor provided in the schedule  16 of 60 percent is -- the 60 percent times the 225  17 equals the 135.5, and therefore the factor allows  18 for a reduction of 40 percent.  19 That's what's meant by the haircut.  20 Q. And did FGIC identify for you the basis  21 for the haircut assumption?  22 MR. SIDMAN: Objection to the form.  23 A. Yes.  24 Q. What did they say as to why they were  25 applying -- or employing a haircut assumption of</p>	<p style="text-align: right;">Page 105</p> <p>1 Pfeiffer - Confidential  2 applied in consideration of the timing of those  3 claims relative to the timing of the payments.  4 Q. Did they tell you or provide you  5 information as to how they calculated the 40  6 percent other than what you just testified to?  7 A. Not that I recall.  8 Q. Did you ask them: Can you show us your  9 calculation as to the timing of payments that  10 would justify this 40 percent figure?  11 A. I don't know if we asked them for that.  12 Q. They didn't give it to you; is that  13 correct?  14 MR. SIDMAN: Objection.  15 A. We did not receive any quantification  16 related to the 40 percent or the 60 percent  17 factor.  18 Q. Did you see the 40 percent or 60  19 percent factor anywhere in the rehabilitation  20 plan?  21 A. No.  22 Q. Did you do any analysis to determine  23 whether this discount -- this haircut assumption  24 of a 40 percent reduction to reflect a discount  25 was reasonable?</p>

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<p style="text-align: right;">Page 106</p> <p>1 Pfeiffer - Confidential</p> <p>2 A. In considering the reasonableness of</p> <p>3 the commutation proposal compared to the projected</p> <p>4 payments, we certainly considered the present</p> <p>5 value of those payments, and incorporated in that</p> <p>6 analysis and in our reasonableness test, we</p> <p>7 therefore assessed the reasonableness of the</p> <p>8 discounted amounts as provided by FGIC as well.</p> <p>9 Q. Well, in Footnote 23 your first</p> <p>10 sentence says, "I have not reviewed the analysis</p> <p>11 behind the 40 percent reduction in the payments</p> <p>12 related to the, i, spread between the base case</p> <p>13 payout and initial CPP multiplied by the accrued</p> <p>14 and unpaid claims; and, ii, the base case payout</p> <p>15 multiplied by the projected claims."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And that's accurate; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And in the concluding sentence you</p> <p>21 state, "The analysis performed by D&amp;P does not</p> <p>22 employ this assumed reduction as D&amp;P incorporates</p> <p>23 the timing of claims and payments related to</p> <p>24 policy claims of the FGIC-insured trusts." See</p> <p>25 Attachment 3.</p>	<p style="text-align: right;">Page 108</p> <p>1 Pfeiffer - Confidential</p> <p>2 a -- as part of the settlement offer in March of</p> <p>3 2013.</p> <p>4 Q. Was this the first settlement offer</p> <p>5 that you saw?</p> <p>6 MR. KOH: Objection.</p> <p>7 A. I believe so.</p> <p>8 Q. And is it your understanding that it's</p> <p>9 the first settlement offer that was made to the</p> <p>10 trees?</p> <p>11 MR. SIDMAN: Objection.</p> <p>12 MR. KOTWICK: Objection to form.</p> <p>13 MR. SIDMAN: I'm going to instruct him</p> <p>14 not to answer that question on the grounds</p> <p>15 that it's -- it involves and is covered by the</p> <p>16 confidentiality provisions of the mediation</p> <p>17 order.</p> <p>18 MR. KOH: I will give the same</p> <p>19 instruction.</p> <p>20 Q. This appears to be dated at the bottom</p> <p>21 3/26/13, 7:27 p.m. Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. Had you received any proposal or</p> <p>24 summary of proposal prior to that date?</p> <p>25 A. I don't think we did, no.</p>
<p style="text-align: right;">Page 107</p> <p>1 Pfeiffer - Confidential</p> <p>2 That was also correct and accurate at</p> <p>3 the time you wrote this report; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And it still is accurate?</p> <p>6 A. Yes, it is.</p> <p>7 Q. In Footnote 24 -- never mind. I'll get</p> <p>8 to that later.</p> <p>9 MR. BAIO: I'm going to ask the</p> <p>10 reporter to mark as Pfeiffer Exhibit 3 the</p> <p>11 one-page chart that was handed to us today.</p> <p>12 MR. SIDMAN: For the record, that</p> <p>13 document, as I stated earlier, is marked</p> <p>14 highly confidential --</p> <p>15 MR. BAIO: Yes.</p> <p>16 MR. SIDMAN: -- and subject to all the</p> <p>17 discussions we've had on the record previously</p> <p>18 and all reservation of rights from both sides.</p> <p>19 MR. BAIO: Thank you. Good. I'm</p> <p>20 writing "highly confidential" on it.</p> <p>21 MR. SIDMAN: There it is.</p> <p>22 (Pfeiffer Exhibit 3, chart, marked for</p> <p>23 identification.)</p> <p>24 Q. What is Exhibit 3?</p> <p>25 A. Exhibit 3 is what was sent to us as</p>	<p style="text-align: right;">Page 109</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. Was there anything else attached to</p> <p>3 this one-page sheet when you received the proposal</p> <p>4 embodied in this one-page sheet?</p> <p>5 A. No.</p> <p>6 Q. And can you walk us through this as to</p> <p>7 what you understand this document to show?</p> <p>8 A. I think this document shows the precise</p> <p>9 numbers that are listed on page 5 of the</p> <p>10 presentation that is included as Attachment 3 to</p> <p>11 my report.</p> <p>12 Q. There is at the bottom something called</p> <p>13 net cost to FGIC. Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. What is your understanding as to what</p> <p>16 that reflects?</p> <p>17 MR. SIDMAN: Same instruction with</p> <p>18 respect to this line.</p> <p>19 MR. BAIO: You mean --</p> <p>20 MR. SIDMAN: He didn't rely on it in</p> <p>21 connection with the report.</p> <p>22 Q. First, do you have an understanding as</p> <p>23 to what it reflects?</p> <p>24 A. As I sit here today, I do not know.</p> <p>25 Q. What about the percentage of allowed</p>

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<p style="text-align: right;">Page 110</p> <p>1 Pfeiffer - Confidential  2 claim realized, the 36 percent, and the maximum  3 dollars realized by FGIC, what is your -- do you  4 have an understanding as to what that reflects?  5 A. Yes.  6 Q. And what is that understanding?  7 MR. SIDMAN: Same instruction to the  8 witness.  9 A. My understanding now -- by the way,  10 after you asked the question, I now understand the  11 last line too.  12 Q. Okay.  13 A. -- the 36 percent times the amount of  14 the claim equals the dollars realized by FGIC. So  15 597.3 times 36 percent -- I don't have my  16 calculator on me, but it seems to be accurate that  17 it's 215 million. And then the 56.6 is the 271.6,  18 which is the value to the trusts, minus the 215,  19 which is the net cost to FGIC.  20 Q. You'll notice at the top there is --  21 there are three headings: All trusts, non-RMBS  22 investor trusts, and RMBS investor trusts. Do you  23 see that?  24 A. I do.  25 Q. And what does each refer to?</p>	<p style="text-align: right;">Page 112</p> <p>1 Pfeiffer - Confidential  2 MR. BAIO: All right. Let's take a  3 short break. You can inquire on the other  4 subject, and we'll continue shortly.  5 (Recess taken from 11:16 to 11:34.)  6 MR. SIDMAN: Counsel, in the last line  7 of questioning, you had asked Mr. Pfeiffer  8 about some information he had received in  9 connection with a meeting he had with various  10 individuals that related to potential proceeds  11 and timing related to material litigation,  12 excluding ResCap-related litigation.  13 I had instructed the witness not to  14 answer because I was unclear as to whether or  15 not the information was subject to other  16 confidentiality agreements not at issue in  17 this case.  18 I have had a chance to confer with my  19 colleagues, and I will remove that instruction  20 and allow the witness to answer the questions,  21 if any, you want to raise.  22 MR. BAIO: Okay.  23 Q. Mr. Pfeiffer, can you look at -- once  24 again at Exhibit 2.  25 A. Yes.</p>
<p style="text-align: right;">Page 111</p> <p>1 Pfeiffer - Confidential  2 MR. KOH: Objection.  3 You may answer.  4 A. I know what the words mean, but I was  5 not focused on those two columns, and I am not --  6 I have nothing to offer about those.  7 Q. Do you have an understanding as to what  8 the non-RMBS investors trusts refers to in this  9 context of this document?  10 MR. KOH: Objection.  11 MR. SIDMAN: Objection, asked and  12 answered.  13 A. No.  14 Q. Do you have an understanding as to what  15 RMBS investors trusts refers to in the context of  16 this document?  17 MR. SIDMAN: Objection.  18 MR. KOH: Objection.  19 MR. SIDMAN: Asked and answered.  20 A. As I stated, I know what the words  21 mean. I know all trusts and then there are  22 certain trusts that are RMBS trusts and certain  23 that are -- a very small portion that are non-RMBS  24 investor trusts. But other than that I can't  25 provide any additional context.</p>	<p style="text-align: right;">Page 113</p> <p>1 Pfeiffer - Confidential  2 Q. There's a reference in the final bullet  3 of the second page of that document to updates, if  4 any, on the following unknown amounts, including  5 potential proceeds and timing related to material  6 litigation excluding ResCap-related.  7 Do you see that?  8 A. Yes.  9 Q. And what did you learn about the  10 discussions with FGIC in connection with that  11 matter?  12 A. We learned that FGIC and Lazard --  13 consistent with what is referenced in the Lazard  14 affidavit, FGIC and Lazard felt that it would not  15 be possible to accurately assess and estimate the  16 potential proceeds and timing related to material  17 litigation.  18 And those amounts, if any, were  19 therefore not included in the rehabilitation plan  20 in the same way that the estimated permitted  21 claims for Jefferson County and regional economies  22 and other downside risks were also not included in  23 the rehabilitation plan because they too were very  24 difficult to estimate in terms of the proceeds and  25 the timing.</p>

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<p style="text-align: right;">Page 114</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. What were the material litigations that</p> <p>3 were being discussed -- or that were discussed at</p> <p>4 that April 2013 meeting?</p> <p>5 A. We did not discuss in particular any of</p> <p>6 the actual litigations themselves, but it's my</p> <p>7 understanding that by and large Countrywide was</p> <p>8 the -- was the material litigation that is</p> <p>9 referred to in this bullet point.</p> <p>10 Q. What is your understanding as to what</p> <p>11 the Countrywide litigation is about and what the</p> <p>12 amount of the claim is, if you have an</p> <p>13 understanding?</p> <p>14 MR. SIDMAN: Objection to the form.</p> <p>15 A. My understanding is that FGIC alleges</p> <p>16 certain issues with respect to the underwriting at</p> <p>17 Countrywide and the litigation surrounds the</p> <p>18 damage associated with that alleged inappropriate</p> <p>19 underwriting standards.</p> <p>20 Q. You understand what the amount of the</p> <p>21 claim is that's been advanced or alleged?</p> <p>22 A. You know, in all these litigations,</p> <p>23 there's an alleged amount, which often has very</p> <p>24 little association with the actual value of a</p> <p>25 litigation. My understanding is that it's alleged</p>	<p style="text-align: right;">Page 116</p> <p>1 Pfeiffer - Confidential</p> <p>2 receive; correct?</p> <p>3 MR. SIDMAN: Objection.</p> <p>4 A. Potentially.</p> <p>5 Q. Assuming that there are recoveries,</p> <p>6 those recoveries would pass through to the</p> <p>7 investors; is that correct?</p> <p>8 MR. SIDMAN: Objection.</p> <p>9 A. There is a -- there is a significant</p> <p>10 amount of mechanics that have to be satisfied</p> <p>11 before it is paid off to -- before it is paid out</p> <p>12 to investors, including reserves that would impact</p> <p>13 the timing of such distributions.</p> <p>14 And obviously the -- there may be --</p> <p>15 there might be other offsetting expenses that</p> <p>16 could diminish the impact of any such ultimate</p> <p>17 recovery as a result of any potential litigation.</p> <p>18 But if there were no other offsetting expenses and</p> <p>19 all you have is additional proceeds, then</p> <p>20 eventually, subject to the limitations of the plan</p> <p>21 in terms of how the CPP works and the reserves and</p> <p>22 so on, ultimately an amount would be paid out to</p> <p>23 the trusts in the form of a recovery.</p> <p>24 Q. And that's true so long as the</p> <p>25 recoveries under the material litigation exceed</p>
<p style="text-align: right;">Page 115</p> <p>1 Pfeiffer - Confidential</p> <p>2 to be a billion dollars, but I'm not -- I'm not</p> <p>3 exactly sure at this moment.</p> <p>4 Q. And did you attempt to put any</p> <p>5 percentage recovery on that and incorporate it in</p> <p>6 your analysis?</p> <p>7 A. We did not.</p> <p>8 Q. So you counted it at zero?</p> <p>9 MR. KOH: Objection.</p> <p>10 MR. SIDMAN: Objection.</p> <p>11 A. We considered it to be a potential</p> <p>12 upside that's not estimable and probable in the</p> <p>13 same way that Lazard considered it to be a</p> <p>14 potential upside, if not estimable and probable,</p> <p>15 and put it in the category of unknowns, similar</p> <p>16 to, as I related to earlier, the various downsides</p> <p>17 that are -- that also were not included as actual</p> <p>18 claims that would impact the cash flows.</p> <p>19 Q. And why would any recoveries be a</p> <p>20 potential upside to the investors?</p> <p>21 A. To the extent that there is a recovery,</p> <p>22 the -- there's more cash available to be</p> <p>23 distributed as projected payments to the</p> <p>24 policyholders.</p> <p>25 Q. And the more the policyholders would</p>	<p style="text-align: right;">Page 117</p> <p>1 Pfeiffer - Confidential</p> <p>2 the costs; isn't that correct? There would be</p> <p>3 some distribution to or payment to the</p> <p>4 policyholders?</p> <p>5 MR. SIDMAN: Objection.</p> <p>6 MR. KOTWICK: Objection to the form.</p> <p>7 A. If the amount recovered exceeds the</p> <p>8 costs, there would, at some point in time, all</p> <p>9 things remaining equal, be distribution to the</p> <p>10 policyholders.</p> <p>11 Q. Are you aware of any settlements of</p> <p>12 claims by FGIC against other parties that have</p> <p>13 generated or will generate money for FGIC?</p> <p>14 MR. KOH: Objection.</p> <p>15 MR. KOTWICK: Objection to form.</p> <p>16 MR. SIDMAN: Objection to form.</p> <p>17 A. I'm aware of the ResCap -- the ResCap</p> <p>18 settlement.</p> <p>19 Q. What is the amount that would be</p> <p>20 generated if the ResCap settlement goes forward?</p> <p>21 MR. SIDMAN: Objection to form.</p> <p>22 A. If the plan is confirmed, the</p> <p>23 settlement provides for approximately \$200</p> <p>24 million.</p> <p>25 Q. And if the plan is not confirmed, is it</p>

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<p style="text-align: right;">Page 118</p> <p>1 Pfeiffer - Confidential      2 your understanding the settlement goes away?      3 A. My understanding is that \$200 million      4 goes away, yes.      5 Q. Are you aware of any other settlements      6 that FGIC has entered into that have yielded      7 recoveries, of material litigation?      8 MR. KOTWICK: Objection to the form.      9 MR. SIDMAN: Objection to the form.      10 A. Not at this time, no.      11 Q. Can we go back to page 5 of your May      12 15th presentation. If you look at the left-hand      13 side at the bottom bullet, it states, "In      14 consideration for the cash commutation payment of      15 approximately \$253 million, FGIC in return would      16 receive a claim in the ResCap case for the sum of,      17 i, payouts made to date related to the RFC-and      18 GMACM-sponsored trust; and, ii, the cash      19 commutation."      20 Do you see that?      21 A. I do.      22 Q. Where did you get that information      23 from?      24 A. It's -- it's right here on the page.      25 It's -- as we discussed earlier, it's also</p>	<p style="text-align: right;">Page 120</p> <p>1 Pfeiffer - Confidential      2 that you referred to in your testimony that may      3 not have been included in the initial proposal as      4 reflected in the March 26th, 2013, document,      5 Exhibit 3?      6 A. To the extent that there are recoveries      7 that are -- that FGIC recovers -- makes recoveries      8 that are particular -- if there are recoveries      9 that are particular to these trusts, those amounts      10 would go directly to the investors in the trusts      11 and not kept by FGIC.      12 Q. What recoveries are you referring to?      13 A. The recoveries have not yet occurred.      14 But if such recoveries were to occur.      15 Q. But recoveries for what? For the      16 material litigations?      17 A. No.      18 Q. What recoveries are you referring to,      19 then?      20 A. I'm referring to recoveries that are      21 specific to the -- to these trusts.      22 Q. Do you discuss those recoveries in your      23 report?      24 A. I believe we did in Section X.      25 Q. Paragraph 10?</p>
<p style="text-align: right;">Page 119</p> <p>1 Pfeiffer - Confidential      2 referenced in Exhibit 3 that was sent to us in      3 March.      4 Q. So that was unchanged between March and      5 May 15th; correct?      6 A. I believe it has remained unchanged.      7 Q. Were any of the terms unchanged between      8 March and May 15th?      9 MR. KOTWICK: Objection to form.      10 MR. SIDMAN: Objection.      11 A. As I mentioned earlier, to the extent      12 that there are additional recoveries, the trusts      13 are entitled to those additional recoveries. And      14 as I also mentioned earlier, the trusts are      15 entitled -- and the investors -- when I say      16 "trusts," I mean the trusts and the investors, are      17 also entitled to the -- to their pro rata share of      18 the reps and warranty claim that would be received      19 by the trusts as a result of the plan settlement      20 agreement.      21 And I don't recall at this time to what      22 extent those issues were discussed or made final      23 at the time of the initial proposal discussion in      24 March and April.      25 Q. What were the additional recoveries</p>	<p style="text-align: right;">Page 121</p> <p>1 Pfeiffer - Confidential      2 A. I'm sorry, Section -- Roman numeral X      3 and paragraph -- page 26.      4 Q. Are you talking about paragraph 59?      5 A. I am.      6 Q. And is it your testimony that under the      7 settlement and plan support agreement the      8 trustees -- I'm sorry, the investors will recover      9 an additional estimated \$92 million in value and      10 they will not in the absence of the settlement?      11 MR. KOTWICK: Objection to form.      12 MR. SIDMAN: Objection to form.      13 MR. KERR: Objection.      14 A. In the absence of the settlement, they      15 would be back to square one where they would have      16 to -- they would have to be part of the litigation      17 and all the proceedings and motions that would      18 ensue. And it is unknown to what extent they      19 would recover a part, if any, of that \$92 million      20 in value.      21 Q. You're not suggesting that an      22 appropriate valuation in the absence of the plan      23 and settlement is zero for that, are you?      24 A. I'm suggesting that there is -- there      25 would be -- in our estimation there would be a</p>

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<p style="text-align: right;">Page 122</p> <p>1 Pfeiffer - Confidential</p> <p>2 likelihood that the \$92 million would be reduced</p> <p>3 by a meaningful amount. I don't -- I didn't say</p> <p>4 it would be zero; I just think that absent the</p> <p>5 plan support agreement that amount would be highly</p> <p>6 questionable and likely reduced in a meaningful</p> <p>7 way.</p> <p>8 Q. And do you have any work papers that</p> <p>9 show the calculation of your likelihood</p> <p>10 estimation?</p> <p>11 MR. KOH: Objection.</p> <p>12 A. We have -- we have spent significant</p> <p>13 time over many months estimating the rep and</p> <p>14 warranty claims, and the rep and warranty claims</p> <p>15 as a whole, and the rep and warranty claims that</p> <p>16 would be applicable to these 47 trusts as we</p> <p>17 estimate an allocation of those amounts.</p> <p>18 So in the context of advising the RMBS</p> <p>19 trustees over time, we certainly would have run</p> <p>20 various scenarios that have different recoveries,</p> <p>21 and those recoveries would flow in an allocation</p> <p>22 to the 47 trusts.</p> <p>23 But we did not separately estimate a</p> <p>24 different number that comes to mind other than the</p> <p>25 92 million, which is a result of the current plan</p>	<p style="text-align: right;">Page 124</p> <p>1 Pfeiffer - Confidential</p> <p>2 has been superseded and updated to now currently</p> <p>3 reflect the amounts that are consistent with the</p> <p>4 current plan support agreement that is subject to</p> <p>5 confirmation.</p> <p>6 Q. Again, I'm going to try it again. Are</p> <p>7 there documents that reflect the calculations that</p> <p>8 you did to reach the conclusion that there would</p> <p>9 be a likelihood that the \$92 million would be</p> <p>10 reduced by a meaningful amount? Can I see some</p> <p>11 pieces of paper that would show that estimation?</p> <p>12 MR. KOH: Objection.</p> <p>13 MR. KOTWICK: Objection to form.</p> <p>14 MR. SIDMAN: Objection.</p> <p>15 A. Not that comes to mind, no.</p> <p>16 Q. What assumptions did you include in</p> <p>17 reaching that estimation that there was a</p> <p>18 likelihood that the \$92 million would be reduced</p> <p>19 by a meaningful amount?</p> <p>20 (Mr. Gibson leaves proceedings.)</p> <p>21 A. As I -- as I said, we spent significant</p> <p>22 amount of time advising the RMBS trustees, and in</p> <p>23 our final estimation, in sitting through mediation</p> <p>24 and in providing significant analysis leading up</p> <p>25 to the mediation, it was our view that if the</p>
<p style="text-align: right;">Page 123</p> <p>1 Pfeiffer - Confidential</p> <p>2 support agreement.</p> <p>3 Q. Let me break that into pieces, because</p> <p>4 I have very specific questions as to it.</p> <p>5 First, are there any documents that</p> <p>6 reflect your calculation and estimation that there</p> <p>7 would be a likelihood that the \$92 million would</p> <p>8 be reduced by a meaningful amount in the absence</p> <p>9 of the settlement and the plan support agreement</p> <p>10 approval?</p> <p>11 MR. KOTWICK: Objection.</p> <p>12 Q. Any documents?</p> <p>13 MR. KOTWICK: Objection to the form.</p> <p>14 A. There -- I don't have a particular</p> <p>15 document in mind, but over many months we have</p> <p>16 documented and analyzed recoveries that are</p> <p>17 different from the ultimate recovery that was</p> <p>18 received in the plan support agreement.</p> <p>19 Q. And are there documents that reflect</p> <p>20 what you just described? You said you did work</p> <p>21 for many months. Are there documents that reflect</p> <p>22 that work?</p> <p>23 A. We continuously modeled different</p> <p>24 assumptions on recovery and allocation, and my</p> <p>25 understanding is that all that work on analysis</p>	<p style="text-align: right;">Page 125</p> <p>1 Pfeiffer - Confidential</p> <p>2 medication was not successful and therefore the</p> <p>3 recovery that came out of the mediation for the</p> <p>4 trustees, which includes the 47 insured trusts, if</p> <p>5 that mediation was not successful, the mediation</p> <p>6 and the plan support agreement resulting in</p> <p>7 approximately \$92 million of value to the FGIC-</p> <p>8 insured trusts, if that was not successful, we</p> <p>9 believed and we advised the RMBS trustees and</p> <p>10 their counsel that we believed the alternative</p> <p>11 would be a significantly reduced outcome.</p> <p>12 Q. I've heard the conclusion three or four</p> <p>13 times now. We want to test your conclusions so</p> <p>14 there's no confusion. We need data to evaluate</p> <p>15 whether you just made it up or whether you have a</p> <p>16 basis.</p> <p>17 I'm asking you whether there are</p> <p>18 documents that I can look at and use to evaluate</p> <p>19 whether your conclusion that there is a likelihood</p> <p>20 that the \$92 million would be reduced by a</p> <p>21 meaningful amount, are there documents that I can</p> <p>22 use to test that conclusion.</p> <p>23 MR. KOTWICK: Objection.</p> <p>24 MR. WEITNAUER: Objection, asked and</p> <p>25 answered.</p>

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<p style="text-align: right;">Page 126</p> <p>1 Pfeiffer - Confidential  2 MR. SIDMAN: Objection.  3 Q. Go ahead.  4 A. I think I answered that question  5 already. You asked almost the same exact  6 question. I said I do not have a document in mind  7 that I can produce to you that substantiates a  8 different number or a likelihood of a different  9 number.</p> <p>10 Q. Okay, next. What assumptions did you  11 include to reach the conclusion that there was a  12 likelihood that the \$292 million identified in  13 your report would be reduced by a meaningful  14 amount in the absence of approval of the plan  15 support agreement and the settlement agreement?  16 What assumptions did you include?</p> <p>17 A. Well, the -- some of the major  18 assumptions included the fact that Allied was  19 contributing \$2.1 billion as part of the mediation  20 and the fact that the mediation -- successful  21 conclusion of the mediation allowed for a  22 significant reduction in litigation costs that  23 would result if the mediation was not successful  24 and the plan support agreement was not successful.</p> <p>25 Q. What other assumptions did you include</p>	<p style="text-align: right;">Page 128</p> <p>1 Pfeiffer - Confidential  2 issue.  3 Q. My question is a different one, I  4 believe, and that is under the settlement  5 agreement is it correct that the investors will  6 receive \$253 million payment.</p> <p>7 A. Yes.</p> <p>8 Q. And is it your testimony that in  9 addition to that they will receive \$92 million  10 above and beyond that, under the terms of the  11 settlement agreement?</p> <p>12 MR. KOTWICK: Objection to form.</p> <p>13 MR. SIDMAN: Objection Kerr objection.</p> <p>14 A. My testimony is that under the terms of  15 a settlement agreement, if the plan is otherwise  16 confirmed, that they would receive an additional  17 approximately \$92 million of value as a result of  18 the plan support agreement.</p> <p>19 Q. And when you say "the plan approved,"  20 you mean the ultimate plan of reorganization? Is  21 that what you're referring to?</p> <p>22 A. Yes.</p> <p>23 Q. And that may be approved independent  24 from whether the settlement goes forward or not;  25 is that correct?</p>
<p style="text-align: right;">Page 127</p> <p>1 Pfeiffer - Confidential  2 in the estimation that there would be a likelihood  3 that the \$92 million would be reduced by a  4 meaningful amount?</p> <p>5 A. I think that litigation costs and the  6 lack of a \$2.1 billion contribution from Allied  7 are the two biggest assumptions that underlie my  8 conclusion that the -- that but for the plan  9 support agreement that \$92 million value to be  10 distributed to FGIC-insured trusts would go down  11 by a material amount.</p> <p>12 Q. And is it your understanding that the  13 \$92 million to be distributed to the FGIC-insured  14 trusts gets to the FGIC-insured trusts in  15 connection with the settlement, a FGIC settlement  16 agreement?</p> <p>17 MR. KOTWICK: Objection to the form.</p> <p>18 MR. KOH: Objection.</p> <p>19 Go ahead.</p> <p>20 A. My understanding is that the -- as  21 referenced in the plan term sheet, which is  22 Exhibit A to the PSA, that the plan -- that this  23 commutation settlement is an integral part of the  24 plan support agreement; and if not for the  25 proposal, the plan support agreement would be an</p>	<p style="text-align: right;">Page 129</p> <p>1 Pfeiffer - Confidential  2 MR. KOTWICK: Objection to the form.</p> <p>3 MR. KOH: Objection.</p> <p>4 MR. SIDMAN: Objection.</p> <p>5 A. As I referred to earlier, my  6 understanding is that the plan support agreement  7 cannot go forward without the FGIC settlement  8 agreement as part of it.</p> <p>9 Q. But the plan can go forward; correct?</p> <p>10 MR. KOTWICK: Objection to form.</p> <p>11 MR. KOH: Objection.</p> <p>12 MR. KOTWICK: Asked and answered.</p> <p>13 A. I think I answered the question.</p> <p>14 Q. You can't answer that one separately,  15 whether the plan can go forward in the absence of  16 a settlement?</p> <p>17 MR. WEITNAUER: Which plan?</p> <p>18 MR. BAIO: An ultimate plan of  19 reorganization.</p> <p>20 A. The plan support agreement that we are  21 all talking about here --</p> <p>22 Q. Yes.</p> <p>23 A. -- that is subject to confirmation  24 cannot go forward without the FGIC settlement  25 agreement as part of it.</p>

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<p style="text-align: right;">Page 130</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. But the recoveries that the investors</p> <p>3 would be entitled to for these claims identified</p> <p>4 in paragraph 59 would continue to survive;</p> <p>5 correct?</p> <p>6 MR. KOH: Objection.</p> <p>7 MR. KOTWICK: Objection to form.</p> <p>8 MR. SIDMAN: Objection.</p> <p>9 Q. It's just that you don't know what the</p> <p>10 amount would be?</p> <p>11 MR. KOH: Objection.</p> <p>12 MR. KOTWICK: Objection.</p> <p>13 MR. KOH: It's argumentative, calls for</p> <p>14 a legal conclusion.</p> <p>15 A. Can you repeat the question, please?</p> <p>16 Q. Yes. The \$92 million entitlement just</p> <p>17 doesn't disappear; correct?</p> <p>18 MR. KOTWICK: Objection.</p> <p>19 MR. KOH: Objection.</p> <p>20 MR. SIDMAN: Objection.</p> <p>21 Q. In the absence of a settlement?</p> <p>22 MR. KOTWICK: Objection to form.</p> <p>23 A. In the absence of a settlement, the \$92</p> <p>24 million disappears and the negotiation and the</p> <p>25 litigation and the claim start from square one.</p>	<p style="text-align: right;">Page 132</p> <p>1 Pfeiffer - Confidential</p> <p>2 of the recoveries from the R&amp;W claims.</p> <p>3 Q. And are there documents that reflect</p> <p>4 the work that you just described?</p> <p>5 A. I don't understand the question.</p> <p>6 Q. You said that as of May 15th, 2013, we</p> <p>7 had not quantified the \$92 million number. But it</p> <p>8 was one that you calculated thereafter; correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Are there documents that reflect that</p> <p>11 calculation?</p> <p>12 A. There's an allocation schedule that is</p> <p>13 provided in connection with the plan support</p> <p>14 agreement and with -- in connection with the</p> <p>15 disclosure statements. And if you do the</p> <p>16 arithmetic to add the 47 insured trusts' recovery,</p> <p>17 you would -- you would arrive at a number which is</p> <p>18 approximately \$92 million.</p> <p>19 Q. My question is do you have work papers</p> <p>20 or documents that reflect that calculation.</p> <p>21 A. I think I just answered that the</p> <p>22 document that reflects that calculation is the --</p> <p>23 the document is the schedule that accompanies the</p> <p>24 disclosure statement that was provided recently.</p> <p>25 Q. So you don't have any document at</p>
<p style="text-align: right;">Page 131</p> <p>1 Pfeiffer - Confidential</p> <p>2 And that is what paragraph 59 points out.</p> <p>3 Q. Now, you did not identify the</p> <p>4 consideration contained in paragraph 59 when you</p> <p>5 made your presentation to the trustees; correct?</p> <p>6 MR. KOTWICK: Objection to the form,</p> <p>7 asked and answered.</p> <p>8 MR. KOH: Objection.</p> <p>9 A. We did -- we did discuss that in the</p> <p>10 presentation on March -- on May 15th, and it is</p> <p>11 referenced as one of the -- or the first benefit</p> <p>12 listed as a benefit for the acceptance of the FGIC</p> <p>13 settlement proposal.</p> <p>14 Q. In your report in paragraph 59 you say,</p> <p>15 "While not part of D&amp;P's May 15, 2013,</p> <p>16 presentation to the FGIC trustees, I understand</p> <p>17 that," and then you identify these claims.</p> <p>18 What did you mean when you wrote,</p> <p>19 "while not part of D&amp;P's May 15, 2013,</p> <p>20 presentation to the FGIC trustees"?</p> <p>21 A. What that means is that at May 15th of</p> <p>22 2013 we had not quantified the \$92 million number.</p> <p>23 The \$92 million number was one that can only be</p> <p>24 quantified at the conclusion of the mediation</p> <p>25 sessions and after we had concluded our allocation</p>	<p style="text-align: right;">Page 133</p> <p>1 Pfeiffer - Confidential</p> <p>2 Duff &amp; Phelps that does that calculation, takes</p> <p>3 the information from one document and generates</p> <p>4 the \$92 million? Is that your testimony?</p> <p>5 MR. KOH: Objection.</p> <p>6 MR. KOTWICK: Objection to form.</p> <p>7 MR. SIDMAN: Objection, asked and</p> <p>8 answered.</p> <p>9 A. We were -- Duff &amp; Phelps provided the</p> <p>10 numbers that were presented in the schedules or</p> <p>11 that were attached to the disclosure statement.</p> <p>12 Q. And there's a document that reflects</p> <p>13 that -- correct? -- other than the disclosure</p> <p>14 statement?</p> <p>15 MR. KOTWICK: Objection to form.</p> <p>16 MR. KOH: Objection.</p> <p>17 A. The schedules have numbers on them.</p> <p>18 Q. Yes.</p> <p>19 A. And those numbers are provided for each</p> <p>20 trust. One can therefore do the calculation based</p> <p>21 on those numbers to arrive at an estimate that</p> <p>22 would be consistent with the \$92 million number.</p> <p>23 Q. Did you do that calculation?</p> <p>24 A. Yes.</p> <p>25 Q. And is that embodied in any document</p>

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<p style="text-align: right;">Page 134</p> <p>1 Pfeiffer - Confidential  2 other than what you've testified to, the actual  3 calculation?  4 A. Yes.  5 Q. Did you provide it to us?  6 A. I understand that you have the  7 schedules, the disclosure statement, and so we  8 provided that to you. If you're asking if we  9 provided a summary of the \$92 million and how that  10 number is -- how we add up to that number, I don't  11 know. You'd have to ask counsel if that was  12 provided to you.  13 Q. I want to know about your calculation  14 document, not the publicly available documents.  15 Do you know if you produced it?  16 MR. KOTWICK: Objection, asked and  17 answered.  18 A. I don't know if we produced it.  19 Q. Okay. I request it.  20 A. You have to request counsel.  21 Q. I don't think you have. I request it.  22 MR. GELFARB: On behalf of Freddie Mac,  23 we request production as well.  24 MR. KOH: We will consider your request  25 and get back to you.</p>	<p style="text-align: right;">Page 136</p> <p>1 Pfeiffer - Confidential  2 the fact that it says "among other things" in the  3 first three words of paragraph 59. But we did not  4 quantify it in the report.  5 Q. And as you sit here today, can you tell  6 me what those other things are, with any  7 specificity?  8 A. Only with what -- only what I referred  9 to in response to your prior question.  10 I could provide a little bit more  11 clarity, now that I think about it for an extra  12 minute.  13 To the extent that there are ultimately  14 gains, the trusts would be entitled to those  15 gains, or write-ups. You know, we typically think  16 of loss of principal and interest. But to the  17 extent that the -- that there are write-ups  18 instead of write-downs, the trusts would be  19 entitled to those write-ups in the future and not  20 FGIC.  21 Q. And that would be under the settlement  22 agreement? Is that your testimony?  23 A. Yes.  24 Q. Were you an expert witness in the  25 Celebrity Cruises case?</p>
<p style="text-align: right;">Page 135</p> <p>1 Pfeiffer - Confidential  2 Q. Are there any other additional  3 recoveries that you were referring to when you  4 identified additional consideration that might be  5 received by the investors since the March 26,  6 2013, proposal was received by you?  7 A. As I -- as I mentioned earlier, the  8 plan support agreement -- the plan support  9 agreement makes clear that to the extent there are  10 additional -- other recoveries at that the trust  11 is entitled -- these trusts are entitled to such  12 recoveries.  13 Q. And what are you referring to there?  14 What other recoveries?  15 A. I'm not able to provide you the  16 specific circumstances and amounts of what those  17 recoveries would be, but to the extent that there  18 is additional benefit, the trusts are entitled to  19 it.  20 Q. You did not quantify those additional  21 benefits, did you?  22 A. We did not.  23 Q. And they are not identified in your  24 report; is that correct?  25 A. Unless -- I mean, I would only refer to</p>	<p style="text-align: right;">Page 137</p> <p>1 Pfeiffer - Confidential  2 A. I was.  3 Q. And what were you retained to do in  4 that case?  5 A. I was retained to assess the damages  6 associated with the Legionnaire's disease that  7 impacted Celebrity Cruise Lines.  8 Q. And who retained you?  9 A. I was retained by a law firm --  10 Celebrity Cruise Lines and counsel at Hill Betts.  11 Q. And is it accurate that after making a  12 series of adjustments you calculated that  13 Celebrity suffered total loss of profits of  14 approximately \$92 million?  15 A. I don't recall the number.  16 MR. BAIO: I'm going to ask the  17 reporter to mark as the next exhibit the  18 reported decision in Celebrity Cruises, Inc.  19 MR. KERR: Is there a citation for  20 that?  21 MR. BAIO: Yes. 434 F. Supp 2d 169,  22 May 12th, 2006.  23 Q. Do you recall who the judge was?  24 A. I do not recall.  25 Q. Was it Magistrate Judge Francis?</p>

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<p style="text-align: right;">Page 138</p> <p>1 Pfeiffer - Confidential  2 A. I think so, yes.  3 MR. BAIO: Let's mark this as Exhibit  4 4.  5 (Pfeiffer Exhibit 4, reported decision  6 in Celebrity Cruises, Inc., marked for  7 identification.)  8 Q. Can you look at page 13 of this  9 printout. You'll see that there's reference to  10 your name, Allen Pfeiffer? Do you see that?  11 A. I do.  12 Q. And it states in I think it is the  13 second sentence: "After making a series of  14 adjustments, Mr. Pfeiffer calculated that  15 Celebrity suffered total lost profits of  16 approximately \$92 million."  17 Do you see that?  18 A. I do.  19 Q. Does that refresh your recollection as  20 to what you calculated in that case?  21 A. That's one aspect of my analysis, but  22 yes.  23 Q. And another aspect of your analysis was  24 you deducted from that amount \$11 million  25 attributable to direct lost revenue, out-of-pocket</p>	<p style="text-align: right;">Page 140</p> <p>1 Pfeiffer - Confidential  2 because, if not exclusively because, the  3 assumptions that we used differed from the one  4 expert that was not excluded.  5 So they didn't want there to be --  6 Judge Francis did not want there to be seven,  7 eight, nine, ten experts providing different  8 damage calculations, and therefore he found one  9 expert that used assumptions that were different  10 from all the others, accepted that one expert, and  11 excluded all the others as -- as not reliable and  12 flawed because the assumptions were inconsistent  13 with the other expert.  14 Q. You were one of the experts whose  15 methodology was found to be flawed; correct?  16 A. Correct.  17 Q. And to use Judge Francis's words -- and  18 I'm quoting from page 14 -- he said that your  19 analysis suffers from the same fatal flaws as  20 another expert's methodology, "reliance on  21 projections that were not borne out in reality,  22 period."  23 Do you see that?  24 A. Where are you reading from exactly, I'm  25 sorry?</p>
<p style="text-align: right;">Page 139</p> <p>1 Pfeiffer - Confidential  2 costs, and brand repair expense items included in  3 certain categories; is that correct?  4 A. Yes.  5 Q. And is it accurate to state that the  6 court rejected your analysis in that case?  7 A. Yes.  8 Q. And what is your understanding as to  9 why the court rejected your analysis in that case?  10 MR. KOH: Objection.  11 A. My understanding is that in the context  12 of a Dalbert motion -- Dalbert motions were filed  13 with respect to the seven witnesses that --  14 actually more than seven, I'm sorry. It's ten  15 witnesses that were proffered in this case as  16 experts to assess damages.  17 And prior to the hearing in front of a  18 jury, the judge excluded all but one of the  19 plaintiff's experts. And I was one of the  20 plaintiff experts that was excluded from  21 testifying in front of the jury.  22 So Celebrity was the plaintiff. All  23 the experts were excluded except for one, and my  24 understanding is that the judge ruled that our  25 assumptions were flawed or not reliable primarily</p>	<p style="text-align: right;">Page 141</p> <p>1 Pfeiffer - Confidential  2 Q. If you go to page 13, the second full  3 paragraph starts, "This analysis suffers from the  4 same fatal flaws Dr. Lassiter's methodology,  5 reliance on projections that were not borne out in  6 reality."  7 Do you see that?  8 A. I see that, page 14, yes.  9 Q. And it's your understanding that that's  10 what the judge's conclusion was; correct?  11 MR. KOH: Objection.  12 Q. You relied on projections that were not  13 borne out in reality?  14 MR. KOH: Objection.  15 A. That's correct. As I described before,  16 one of the experts showed the projections relative  17 to what was -- what actually occurred and  18 therefore adjusted the projections in light of  19 that. The experts, not just me, but all the other  20 experts did not do that, and therefore the judge  21 concluded that our analysis suffered from that  22 flaw.  23 Q. And if you look at the end of the  24 judge's criticisms of your analysis, it states --  25 and I'm on page 14, that last paragraph before the</p>

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<p style="text-align: right;">Page 142</p> <p>1 Pfeiffer - Confidential  2 next expert's name -- it states, "Mr. Pfeiffer  3 failed to justify in his final analysis his choice  4 of a, quote, reasonable rate of return by, for  5 example, comparing it to rates of returns for  6 comparable companies."  7 Do you see that?  8 MR. KOH: Objection.  9 A. I do.  10 Q. And that was the judge's conclusion; is  11 that correct?  12 A. Yes, it was.  13 Q. And he goes on to state, "Since none of  14 the individual components of Mr. Pfeiffer's  15 analysis is reliable, the average is likewise  16 flawed and his expert opinion will not be  17 admitted."  18 Do you see that?  19 A. I do.  20 Q. And that was the judge's ruling; isn't  21 that right?  22 A. Yes, as I described to you, the  23 projections -- the components of -- the component  24 referred to here, the projections, he did not  25 accept the reliability of those projections and</p>	<p style="text-align: right;">Page 144</p> <p>1 Pfeiffer - Confidential  2 the jury did not include my -- my analysis. And  3 so I don't know to what extent the expert -- the  4 one expert who survived, I don't know to what  5 extent he incorporated elements of my analysis and  6 whether that was heard in front of the jury.  7 Q. That's what you don't know?  8 A. I don't know, but I'm told that  9 elements of my analysis were helpful to the expert  10 that ultimately testified in front of the jury.  11 Q. But you didn't testify in front of the  12 jury; correct?  13 A. I did not.  14 MR. BAIO: All right. Let's take a  15 lunch break.  16 (Time noted: 12:26 p.m.)  17  18  19  20  21  22  23  24  25</p>
<p style="text-align: right;">Page 143</p> <p>1 Pfeiffer - Confidential  2 excluded testimony based on them.  3 Q. Did you, in this case, Celebrity  4 Cruises, do the comparison that the judge asserts  5 you did not, that is, comparing it to rates of  6 returns for comparable companies? Did you in fact  7 do such an analysis in that case?  8 A. You know, I don't recall. I would  9 assume that I did. I don't -- I don't recall.  10 Q. Well, did the attorneys appeal this  11 decision, if you know?  12 A. You know, the attorneys were -- I don't  13 believe they appealed, and I believe they got a  14 result in trial that was consistent with my  15 opinion.  16 Q. But they got --  17 A. They were satisfied with the conclusion  18 of the case, and they were satisfied with my  19 involvement and my testimony as well.  20 Q. But they got that result without your  21 participation; correct?  22 MR. KOH: Objection.  23 A. My participation was in an earlier  24 hearing in front of the judge, and my expert  25 report was part of that process. The ruling from</p>	<p style="text-align: right;">Page 145</p> <p>1  2 A F T E R N O O N S E S S I O N  3 (Time noted: 1:14 p.m.)  4 (Mr. Devore leaves proceedings.)  5 A L L E N M. P F E I F F E R ,  6 resumed as a witness, having been previously  7 affirmed by the notary public, was examined  8 and testified further as follows:  9 EXAMINATION CONTINUED BY  10 MR. BAIO:  11 Q. Can you look at Exhibit 1, please. I'd  12 like to draw your attention to paragraph 9, scope  13 of work. It states in paragraph 9 that your,  14 "assignment is to assess the reasonableness from a  15 financial perspective and from the perspective of  16 the FGIC-insured trusts of the settlement  17 agreement which provides for, among other things,  18 a lump-sum payment by FGIC to the FGIC-insured  19 trusts" (the commutation payment) in satisfaction  20 of any obligations of FGIC to make payments in the  21 future (the projected payments) to the FGIC-  22 insured trusts under the FGIC rehabilitation plan  23 as that term is defined below (the commutation)."  24 Do you see that language?  25 A. Yes.</p>

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<p style="text-align: right;">Page 146</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. And does that accurately reflect what</p> <p>3 your assignment was in this matter --</p> <p>4 A. Yes.</p> <p>5 Q. -- at least with respect to this</p> <p>6 report?</p> <p>7 A. Yes.</p> <p>8 Q. What did you mean by the word</p> <p>9 "reasonableness" in that -- what did you -- what</p> <p>10 did you mean by the word "reasonableness" in the</p> <p>11 scope of work and the assignment that you</p> <p>12 undertook?</p> <p>13 A. What I meant is that when you compare</p> <p>14 the commutation payment and all the other benefits</p> <p>15 associated with the settlement agreement, if you</p> <p>16 compare that to the range of outcomes that one may</p> <p>17 expect from the projected payments under the rehab</p> <p>18 plan, are they reasonably close to one another,</p> <p>19 meaning do the range of the expected payments --</p> <p>20 when you look at that range, is this conclusion,</p> <p>21 is this proposal, within that range.</p> <p>22 Q. And when you say "within that range,"</p> <p>23 do you mean anywhere within that range?</p> <p>24 A. "Reasonable" to me means reasonably</p> <p>25 within that range. And it's not just a number</p>	<p style="text-align: right;">Page 148</p> <p>1 Pfeiffer - Confidential</p> <p>2 range in determining reasonableness.</p> <p>3 Q. And the range includes positives and</p> <p>4 negatives -- is that correct? -- positives for the</p> <p>5 investors and negatives for the investors in</p> <p>6 establishing the range?</p> <p>7 MR. KOTWICK: Objection to the form.</p> <p>8 A. There's -- the range includes</p> <p>9 assumptions that have upside and downside risks,</p> <p>10 benefits, quantifiable benefits, less quantifiable</p> <p>11 benefits. It considers a lot of factors.</p> <p>12 Q. And when you use the term "expect from</p> <p>13 the projected payments," what standard did you use</p> <p>14 to determine whether something could be expected</p> <p>15 in establishing the range?</p> <p>16 A. We looked at the base case and the</p> <p>17 stress case. We noted all the risks associated</p> <p>18 with the cash flows and the uncertainties of the</p> <p>19 cash flows and, with our significant amount of</p> <p>20 expertise in looking at cash flows, then</p> <p>21 determined to what extent we can get comfortable</p> <p>22 with an expected case and the discount rate</p> <p>23 associated with those expected cash flows in that</p> <p>24 expected case.</p> <p>25 Q. And when you are using the word</p>
<p style="text-align: right;">Page 147</p> <p>1 Pfeiffer - Confidential</p> <p>2 that I'm looking at; it's also in consideration of</p> <p>3 all the other risks and benefits associated with</p> <p>4 the proposal.</p> <p>5 Q. You were doing your analysis from a</p> <p>6 financial perspective; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Not from any other perspective?</p> <p>9 A. Correct.</p> <p>10 Q. And when you say -- and I need to go --</p> <p>11 when you state that you were going to make the</p> <p>12 comparison "to the range of outcomes that one may</p> <p>13 expect from the projected payments under the rehab</p> <p>14 plan," what did you mean by "range of outcomes"?</p> <p>15 A. What I mean is that there's -- there's</p> <p>16 various cases -- in this case there are two</p> <p>17 different projections: There's a base case and a</p> <p>18 stress case. There's different discount rates,</p> <p>19 among other assumptions that need to be made.</p> <p>20 And so when you model out the rehab</p> <p>21 plan -- the rehab plan's expected payments, you</p> <p>22 will arrive, we will arrive, we have arrived at a</p> <p>23 range of results.</p> <p>24 And so we compare the commutation</p> <p>25 payment along with the other benefits to that</p>	<p style="text-align: right;">Page 149</p> <p>1 Pfeiffer - Confidential</p> <p>2 "expected," do you mean reasonably expected?</p> <p>3 A. I think that's fair.</p> <p>4 Q. Now, you were not asked to assess</p> <p>5 whether the settlement agreement was in the best</p> <p>6 interest of the FGIC-insured trusts; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you were not asked whether the</p> <p>9 settlement agreement was in the best interest of</p> <p>10 the investors; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And you did not provide any opinion to</p> <p>13 your clients, to the trustees, as to whether the</p> <p>14 settlement, the proposed settlement, was in the</p> <p>15 best interest of the insured trusts; correct?</p> <p>16 A. Correct. Our assignment was to provide</p> <p>17 them a view as to the reasonableness of the offer</p> <p>18 and advise them relative to the risks and the</p> <p>19 benefits of that proposal. And it was the</p> <p>20 trustees who then determined if in light of that</p> <p>21 if the proposal was in their best interests or</p> <p>22 not.</p> <p>23 Q. So just to have a clear answer to my</p> <p>24 question, you did not provide any opinion to the</p> <p>25 trustees as to whether the proposed settlement was</p>

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<p style="text-align: right;">Page 150</p> <p>1 Pfeiffer - Confidential  2 in the best interest of the insured trusts;  3 correct?  4 MR. SIDMAN: Objection.  5 MR. KOH: Objection.  6 A. You have used the word "any" in your  7 question, and that is the reason why I qualified  8 my answer. We did not provide an opinion relative  9 to what's in their best interests. That was not  10 our mandate. However, we did provide input with  11 respect to much of the questions that they might  12 ask in determining what is in their best interest.  13 So we provided a lot of input, and we  14 provided clearly an opinion on the reasonableness  15 of the offer. But we did not tell them how to,  16 you know -- what to do in terms of determining  17 what's in their best interests.  18 Q. I understand. I'm not asking what you  19 didn't tell them; I'm asking -- and this is a  20 different question -- did you advise the trustees  21 that the settlement agreement was in the best  22 interest of the investors in the FGIC-insured  23 trusts.  24 MR. KOTWICK: Objection to form.  25 MR. SIDMAN: Objection.</p>	<p style="text-align: right;">Page 152</p> <p>1 Pfeiffer - Confidential  2 correct?  3 A. Yes.  4 Q. Why does it fall within the reasonable  5 range, in your view?  6 MR. KOTWICK: Objection to form.  7 A. It falls within it.  8 Q. Does it fall within the low end of the  9 reasonable range?  10 MR. KOTWICK: Objection to form.  11 A. I think -- after considering all the  12 risks and benefits associated with the plan and  13 the uncertainties with regard to the cash flows  14 and the consideration of both the base case and  15 the stress case, I think it falls comfortably in  16 the middle of the range.  17 Q. So you didn't conclude that it falls  18 within the high end of the range; correct?  19 MR. KOTWICK: Objection to form.  20 MR. SIDMAN: Objection to form.  21 A. We made no such conclusion as to  22 exactly where within the range it falls.  23 Q. And you did not tell the trustees where  24 in the range you believed the settlement proposal  25 fell, the commutation payment; correct?</p>
<p style="text-align: right;">Page 151</p> <p>1 Pfeiffer - Confidential  2 A. That was not our mandate, no.  3 Q. And you didn't tell them that; correct?  4 A. We did not tell them what's in the best  5 interest of the trusts.  6 Q. If you look at the summary of  7 conclusions, you'll see in paragraph 12 on page 7  8 you state conclusion one. First, was that -- is  9 that your conclusion as a result of the work that  10 you undertook, that is, one of your two  11 conclusions?  12 A. Yes.  13 Q. Did you communicate that conclusion to  14 the trustees when you made the presentation to the  15 trustees?  16 A. Yes.  17 Q. And the conclusion that you reach at  18 the end of that sentence, of those sentences, is  19 "It is my conclusion that the commutation payment  20 amount of approximately 253.3 million falls within  21 a reasonable range given the expected cash flows  22 associated with the projected payments."  23 Do you see that?  24 A. Yes.  25 Q. And that is your opinion; is that</p>	<p style="text-align: right;">Page 153</p> <p>1 Pfeiffer - Confidential  2 A. Correct.  3 Q. Your conclusion two is "From a  4 financial perspective, it is my conclusion that it  5 was reasonable for the FGIC trustees to agree to  6 the settlement agreement and thereby accept the  7 commutation payment over the projected payments."  8 Do you see that?  9 A. Yes.  10 Q. And did you tell that to the trustees?  11 A. No. This is a subsequent conclusion.  12 Q. When were you asked to undertake that  13 analysis that led to the conclusion?  14 A. Well, subsequent to their agreeing --  15 to the trustees agreeing to a settlement  16 agreement, I am now opining that it is my  17 conclusion that it was reasonable for the trustees  18 to agree to the settlement agreement. So I was  19 asked to provide a view on that sometime between  20 the end of May and today.  21 Q. What did you do, after you were asked  22 to opine on that subject, to give you the ability  23 to opine on that subject?  24 A. Reviewed all the same information we  25 had prior to the -- prior to the May 15th</p>

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<p style="text-align: right;">Page 154</p> <p>1 Pfeiffer - Confidential  2 presentation, considered everything that happened  3 between May 15th and the date of the settlement  4 agreement, which I believe was May 23rd,  5 considered the results of the mediation and the  6 plan support agreement, considered anything that  7 had happened between May and today.  8 And I have -- after consideration of  9 all those factors, I am here today to reconfirm  10 our conclusion that it was reasonable for the FGIC  11 trustees to agree to the settlement agreement.</p> <p>12 Q. What things occurred after May 15th  13 that you included in your analysis that led to  14 this conclusion?</p> <p>15 A. Well, for one, as we mentioned earlier,  16 the mediation was successful, which led to a plan  17 support agreement, which led to significant  18 benefit associated with the settlement agreement  19 in that it's an integral part of the plan support  20 agreement, which I think provides value to the 47  21 insured trusts.</p> <p>22 Q. What else?</p> <p>23 A. We've also had the opportunity to  24 revisit and focus more on the rehabilitation plan,  25 the discount rate, and the underlying assumptions.</p>	<p style="text-align: right;">Page 156</p> <p>1 Pfeiffer - Confidential  2 A. Yes.  3 Q. What did they say?  4 A. Their focus was on a trading analysis  5 that when they looked at how these securities  6 traded that they priced in a certain amount of  7 value from the rehabilitation plan and that that  8 amount was, in their estimation, higher than the  9 commutation proposal.</p> <p>10 Q. Did they describe for you how they did  11 that trading analysis?</p> <p>12 A. Not in much detail, no.</p> <p>13 Q. Did they do it in any detail?</p> <p>14 A. Not really, no.</p> <p>15 Q. Did you ask any questions about their  16 trading analysis?</p> <p>17 A. Yes, I did.</p> <p>18 Q. What did you ask, and what did they  19 say?</p> <p>20 A. We asked how they arrived at their  21 conclusions, and they basically described that  22 they backed out the value in the security -- in  23 the securities that they held. They backed out  24 the value associated with the actual collateral.</p> <p>25 And what was left from their</p>
<p style="text-align: right;">Page 155</p> <p>1 Pfeiffer - Confidential  2 And that additional analysis and support after May  3 15th, provided for more comfort.</p> <p>4 And we also had the opportunity to meet  5 with Monarch and Stonehill, heard their viewpoint,  6 considered that viewpoint, and, you know, all that  7 subsequent information contributes to our current  8 conclusion -- my current conclusion that it was  9 reasonable to agree to the settlement agreement.</p> <p>10 Q. And were you present at the meeting  11 with Monarch and Stonehill?</p> <p>12 A. I was.</p> <p>13 Q. And what did you learn during that  14 meeting?</p> <p>15 A. I learned during that meeting that they  16 had a different perspective on the expected -- or  17 I call projected payments relative to the  18 settlement agreement.</p> <p>19 Q. And what did they say in that regard?</p> <p>20 A. They said they expected to get a lot of  21 value out of the payments from the rehabilitation  22 plan, and they felt that value exceeded the  23 commutation proposal.</p> <p>24 Q. Did they tell you why they reached that  25 conclusion?</p>	<p style="text-align: right;">Page 157</p> <p>1 Pfeiffer - Confidential  2 perspective was cents on the dollar associated  3 with the rehabilitation plan and that their  4 estimate of what that was worth was greater than  5 the estimate of the commutation proposal.</p> <p>6 They didn't want to provide the actual  7 analysis or worksheets that backed up that  8 assessment.</p> <p>9 Q. Did you ask for them?</p> <p>10 A. We did.</p> <p>11 Q. Did you respond to their statements in  12 the meeting as to their view of the value under  13 the plan as opposed to the commutation agreement?</p> <p>14 A. We were -- we were, by and large, in a  15 listening mode.</p> <p>16 Q. Did you say anything?</p> <p>17 A. Yes.</p> <p>18 Q. What did you say?</p> <p>19 A. We explained how we got to our  20 conclusion.</p> <p>21 Q. And did you say anything about their  22 conclusion to them?</p> <p>23 A. That we were happy to see more.</p> <p>24 Q. Did you get input from any other  25 investors besides Monarch and Stonehill?</p>

<p style="text-align: right;">Page 158</p> <p>1 Pfeiffer - Confidential  2 MR. KOTWICK: Objection to the form.  3 A. At that meeting?  4 Q. No, at any time?  5 A. Well, subsequent to that date, we have  6 received objections and expert reports that seem  7 to reflect the view of Freddie, among others.  8 Q. Have you reviewed those reports and  9 objections?  10 A. I have.  11 Q. And have you incorporated them in the  12 evaluations that you undertook that led to what  13 you've said today?  14 MR. KOH: Objection.  15 MR. SIDMAN: Objection to form.  16 A. I have incorporated everything that I  17 have learned from those expert reports and  18 objections, and my opinion remains the same today  19 as it was at the time of my expert report on July  20 19th.  21 Q. If you look at page 7, paragraph 13,  22 you go on to state, "While I do not conclude that  23 acceptance of the commutation payment inevitably  24 will be a superior result for all investors" --  25 and I'm going to stop right there.</p>	<p style="text-align: right;">Page 160</p> <p>1 Pfeiffer - Confidential  2 A. We did not evaluate likelihoods, no.  3 Q. As you sit here today, can you say what  4 the likelihood is that investors would receive a  5 higher recovery under the rehabilitation plan as  6 opposed to the settlement agreement?  7 A. No.  8 Q. Is it your understanding that under the  9 settlement agreement the FGIC trusts release all  10 claims against ResCap other than payments  11 contemplated by the proposed ResCap plan?  12 MR. KOH: Objection.  13 MR. KOTWICK: Objection.  14 A. Can you restate the question, please?  15 Q. Yes. Is it your understanding that  16 under the proposed settlement agreement the FGIC  17 trusts release all claims against ResCap other  18 than payments contemplated by the proposed ResCap  19 plan?  20 MR. KOH: Objection.  21 MR. KOTWICK: Objection.  22 A. Sounds too much like a lawyer question.  23 I can't answer it.  24 Q. Okay. So you don't know whether under  25 the proposed settlement agreement the FGIC trusts</p>
<p style="text-align: right;">Page 159</p> <p>1 Pfeiffer - Confidential  2 What do you mean by "inevitably"? With  3 an absolute certainty?  4 A. Yes.  5 Q. Did you do any evaluation of the  6 likelihood that investors would receive a greater  7 recovery under the rehabilitation plan as opposed  8 to the settlement agreement?  9 A. We don't do likelihood analysis as you  10 described.  11 Q. So you didn't do that?  12 A. We did provide a range of estimates, as  13 you see in our report and in our presentation, and  14 that is the way we look at the potential that the  15 result will be superior or inferior to the  16 commutation payment.  17 Q. Well, my question to you is did you do  18 any evaluation of the likelihood that investors  19 would receive more under the rehabilitation plan  20 than they would under the settlement agreement.  21 A. No.  22 Q. You were not asked to do that?  23 A. No.  24 Q. And you reached your conclusions  25 without doing any such evaluation; correct?</p>	<p style="text-align: right;">Page 161</p> <p>1 Pfeiffer - Confidential  2 release their claims against ResCap other than  3 what they would get under the plan?  4 MR. KOTWICK: Objection.  5 MR. KOH: Objection.  6 MR. SIDMAN: Objection.  7 A. Can you say that again, please?  8 Q. You don't know whether under the --  9 it's not there. Is it your understanding that  10 under the proposed settlement agreement the FGIC  11 trusts release all claims against ResCap other  12 than the payments contemplated by the proposed  13 ResCap plan?  14 MR. KOH: Objection.  15 MR. SIDMAN: Objection.  16 A. There's too many legal conclusions that  17 I would have to make in answering that question.  18 My understanding is consistent with the settlement  19 agreement and the subsequent plan support  20 agreement, and the rights and what's waived are  21 spelled out clearly in those agreements. And I'm  22 not here to provide, you know that, that kind of  23 legal interpretation.  24 Q. What is your understanding as to what  25 claims the FGIC trust will release under the</p>

<p style="text-align: right;">Page 162</p> <p>1 Pfeiffer - Confidential  2 settlement agreement, if you have any  3 understanding?  4 MR. KOH: Objection.  5 A. My understanding is that they will  6 release the claims that they have for accrued and  7 unpaid amounts and future losses of principal and  8 interest associated with these trusts. They will  9 not be making those claims to FGIC because instead  10 in return they have received the up-front payment  11 as described in the investment agreement.  12 Q. Now, I want you to assume that the  13 settlement agreement is approved but the proposed  14 ResCap plan is not. Okay. Do you have those two  15 things in your head?  16 A. Yes.  17 Q. Under that circumstance the FGIC trusts  18 received zero recovery from ResCap; correct?  19 MR. KOTWICK: Objection.  20 MR. SIDMAN: Objection.  21 MR. KOH: Objection.  22 Q. If you know.  23 A. That is not necessarily the case.  24 Q. Okay. And why do you say that?  25 A. They would have a claim, a rep and</p>	<p style="text-align: right;">Page 164</p> <p>1 Pfeiffer - Confidential  2 Q. Under that scenario is it your  3 understanding that the FGIC trusts will not  4 receive any recovery from ResCap?  5 A. I answered that question already.  6 Q. And what is the answer?  7 MR. KOTWICK: Objection to form.  8 MR. KOH: Objection.  9 A. Not necessarily.  10 Q. Okay. So that's your understanding.  11 Did you calculate the value of the  12 claims against ResCap that the FGIC trusts are  13 releasing under the release provision?  14 MR. KOTWICK: Object to form.  15 A. I don't know.  16 Q. I want you to assume again that the  17 settlement agreement is approved but the ResCap  18 plan is not. Under that circumstance or that  19 combination of circumstances, is it true and  20 accurate that the FGIC trusts will only receive  21 the \$253.3 million commutation amount with no  22 other recoveries from either FGIC or ResCap?  23 MR. KOTWICK: Objection to form.  24 MR. KOH: Objection.  25 MR. SIDMAN: Objection.</p>
<p style="text-align: right;">Page 163</p> <p>1 Pfeiffer - Confidential  2 warranty claim, against ResCap, and they may or  3 may not be entitled to a certain amount -- or  4 recover a certain amount from that claim, even if  5 the plan support agreement was not confirmed.  6 Q. So it's your understanding that that  7 rep and warranty claim is not being released under  8 the settlement agreement; is that correct?  9 MR. KOTWICK: Objection.  10 MR. KOH: Objection.  11 A. My understanding is that it is -- the  12 plan support agreement and the settlement  13 agreement are intertwined in that sense, that  14 there is an understanding that the settlement  15 agreement is part of the plan support agreement  16 and that they maintain their rights to the rep and  17 warranty claim.  18 Q. I'm asking a different question. I  19 want you -- you understand that the settlement  20 agreement can be approved but that the ResCap plan  21 may not be approved? Do you understand that?  22 A. That is a possibility.  23 MR. KOH: Objection.  24 Q. That is what I want you to assume.  25 A. Okay.</p>	<p style="text-align: right;">Page 165</p> <p>1 Pfeiffer - Confidential  2 A. I understand that to be the same  3 question you asked me earlier, and the answer is  4 not necessarily.  5 Q. Well, the earlier question was only  6 against ResCap. Now I added FGIC. We can take  7 them separately to avoid compounding.  8 A. Okay. I answered the question as  9 regards ResCap.  10 Q. Yes.  11 A. Not necessarily. They could still  12 recover in some other plan. If it's not this plan  13 support agreement or some other reorganization  14 plan of ResCap, they could still recover  15 something.  16 Q. What do you base that on?  17 A. That they have a claim and they're not  18 giving up that rep and warranty claim. So if it's  19 not negotiated in terms of the recovery as built  20 into the current plan support agreement, that plan  21 support agreement is not confirmed, the claim  22 still exists and they could pursue that claim as  23 part of the reorganization process.  24 Q. And have you estimated the value of  25 that claim? And that's against ResCap.</p>

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<p style="text-align: right;">Page 166</p> <p>1 Pfeiffer - Confidential  2 MR. WEITNAUER: Object to form.  3 A. I have estimated it based on the  4 current plan support agreement that's in place at  5 \$92 million. And absent a different set of  6 circumstances, I would say the value is \$92  7 million.  8 But if that plan support agreement went  9 away, as we discussed earlier, I think the  10 value -- the value -- the likely recovery and  11 therefore value associated with that claim would  12 be diminished.  13 Q. And assuming, again, that the  14 settlement agreement is approved but the ResCap  15 plan is not approved, is it your understanding  16 that the FGIC trusts will only receive the \$253.3  17 million commutation amount with no other  18 recoveries from FGIC?  19 MR. KOTWICK: Objection to form.  20 MR. KOH: Objection.  21 MR. SIDMAN: Objection.  22 A. Not necessarily.  23 Q. And why do you say that?  24 A. As I mentioned earlier, there could be  25 instances where there's additional recovery to the</p>	<p style="text-align: right;">Page 168</p> <p>1 Pfeiffer - Confidential  2 A. That's my understanding.  3 Q. Let's look at the D&amp;P role as financial  4 advisor, paragraph 14.  5 A. Okay.  6 Q. We talked a little bit about the  7 confidential information sentence. Let's go to  8 the next one: D&amp;P performed an independent  9 financial analysis to determine a reasonable range  10 of the value of projected payments to the  11 FGIC-insured trusts based on the rehabilitation  12 plan.  13 What did you mean by "projected  14 payments" there? What are the components of the  15 projected payments?  16 A. Well, there's a -- there's payments  17 that are made out of the plan to all the  18 policyholders, and a certain portion of those  19 payments are made to the FGIC-insured trusts. And  20 so what I mean here is that we determine the value  21 of such payments on a present value basis.  22 Q. And what are the components of payments  23 that you included which you applied the present  24 value analysis to?  25 A. There's the CPP --</p>
<p style="text-align: right;">Page 167</p> <p>1 Pfeiffer - Confidential  2 trusts.  3 Q. From FGIC?  4 A. I don't know how they -- I don't know  5 how they'd flow, whether from FGIC or not. But it  6 would be from a -- if a loan -- a loan is presumed  7 to have a certain loss and then the homeowner  8 subsequently makes certain payments that creates  9 in essence a write-up and additional recovery to  10 the trust that the trusts would be -- would be  11 able to receive.  12 And I don't know if that goes through  13 FGIC or directly to the trusts, but that would  14 provide a circumstance in which the trusts can  15 ultimately receive more than the \$253 million.  16 Q. And it's your understanding that the  17 trusts do not release or waive those claims to the  18 extent they are against FGIC under the settlement  19 agreement. Is that your testimony?  20 A. I would not refer to them as claims; I  21 would refer to them as recoveries.  22 Q. Okay. And those recoveries are not  23 waived under the settlement agreement against  24 FGIC. Is that your testimony?  25 MR. KOH: Objection.</p>	<p style="text-align: right;">Page 169</p> <p>1 Pfeiffer - Confidential  2 Q. Yes.  3 A. -- the initial CPP.  4 Q. Yes.  5 A. And then there's the additional CPP  6 after the initial payment. And then on top of  7 that there's a DPO accretion amount. Those are  8 the -- those are the -- those are the components  9 of the projected payments.  10 Q. No other components?  11 A. Well, I should add there's a netting of  12 those components for the payments that the trusts  13 would make to the -- to FGIC, the premium  14 payments -- the premiums that would need to be  15 made by the trusts to FGIC are a component of that  16 cash flow that gets netted out against those  17 payments.  18 Q. Okay. Anything else?  19 A. Not that comes to mind right now.  20 Q. You go on to state, "D&amp;P presented the  21 analysis on an ongoing basis to the FGIC trustees  22 during the mediation."  23 Do you see that language?  24 A. I do.  25 Q. Did you meet with the trustees more</p>

<p style="text-align: right;">Page 170</p> <p>1 Pfeiffer - Confidential  2 than once?</p> <p>3 MR. KOTWICK: Objection to form.</p> <p>4 A. We met with trustees' counsel more than  5 once.</p> <p>6 Q. Okay. I'm literally using the term you  7 used in your document, "FGIC trustees." I  8 understand you might have met with FGIC trustees'  9 counsel.</p> <p>10 Did you meet with or have a  11 conversation with the FGIC trustees more than what  12 you've testified to, the conference call that you  13 identified?</p> <p>14 MR. WEITNAUER: Object to form.</p> <p>15 A. I don't recall if the trustees were  16 part of any of the conversations that we have with  17 trustee counsel.</p> <p>18 Q. But with trustee counsel you did  19 provide the analysis on some ongoing basis;  20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And you did that in writing, among  23 other things?</p> <p>24 MR. KOTWICK: Objection to form.</p> <p>25 A. In writing upon -- and in addition to</p>	<p style="text-align: right;">Page 172</p> <p>1 Pfeiffer - Confidential</p> <p>2 A. Yes.</p> <p>3 Q. And that FGIC's own calculation leading  4 to a payment amount of \$253.3 million is what's on  5 page 5 of your report dated May 15th, 2013;  6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. You then go on to say, "It also  9 presents D&amp;P's independent analysis of the  10 projected payments and the commutation. It is  11 important to note that the guidance provided by  12 D&amp;P was based on information received from FGIC  13 and Lazard."</p> <p>14 I'll put a close quote there because I  15 want to ask you what information was it that  16 constituted the guidance that was provided to you  17 that you used to reach the conclusions that you've  18 identified.</p> <p>19 A. The information that we received from  20 FGIC and Lazard includes the projections, the  21 rehab plan, and the discussions we had with them  22 with respect to such plan.</p> <p>23 Q. Anything else?</p> <p>24 A. I think we adequately discussed that  25 earlier in reference to the diligence discussion</p>
<p style="text-align: right;">Page 171</p> <p>1 Pfeiffer - Confidential  2 other things, yes, meaning telephone conversations  3 and in-person meetings.</p> <p>4 Q. You go on to refer to -- you'll see on  5 the carryover page 9, Attachment 3. And you  6 state, "The presentation gives background  7 information about the rehabilitation plan,  8 financial considerations concerning the proposal  9 and the rehabilitation plan, and reviews FGIC's  10 own calculations leading to a payment amount of  11 \$253.3 million."</p> <p>12 Do you see that?</p> <p>13 A. I do. I don't want to belabor the  14 point, but you did read one of the words  15 incorrectly.</p> <p>16 Q. I apologize. Which one?</p> <p>17 A. You read the word "covering" as  18 "concerning."</p> <p>19 Q. I see. Let's try it again. "The  20 presentation gives background information about  21 the rehabilitation plan, financial considerations  22 covering the proposal in the rehabilitation plan,  23 and reviews FGIC's own calculations leading to a  24 payment amount of \$253.3 million."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 173</p> <p>1 Pfeiffer - Confidential  2 topics that are summarized in Exhibit 2. And we  3 also had several other phone conversations with  4 them to understand further, but that's -- that's  5 what's referred to here in the sentence in terms  6 of the information received from FGIC and Lazard.</p> <p>7 Q. That information -- did it include  8 documents in addition to what you just identified?</p> <p>9 A. No.</p> <p>10 Q. So you know that -- well, strike that.  11 It says the conclusions reached by D&amp;P  12 resulted from its own independent analysis of that  13 information and publicly available information.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And that's accurate; correct?</p> <p>17 A. Yes.</p> <p>18 Q. Look at paragraph 25 of your report.</p> <p>19 A. Okay.</p> <p>20 Q. The updated runoff projections you  21 referred to there were provided by FGIC and  22 Lazard?</p> <p>23 A. Yes.</p> <p>24 Q. And the 17 to 18 percent figure and the  25 lower percentage of the notional nondiscounted</p>

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<p style="text-align: right;">Page 174</p> <p>1 Pfeiffer - Confidential  2 amounts were from Lazard and FGIC as well?  3 A. Yes.  4 Q. Except for the last sentence in  5 paragraph 26, is all of the information provided  6 by Lazard or FGIC?  7 A. Yes.  8 Q. So is it correct that "According to  9 Lazard, the net present value of aggregate  10 recoveries divided by the net present value of all  11 permitted policy claims are estimated to be 27 to  12 30 percent under rehabilitation plan using a 10 to  13 20 percent discount range"?</p> <p>14 Is that correct?  15 A. Yes.  16 Q. And did you think that was a reasonable  17 range?  18 A. I don't understand your question.  19 Q. Did you believe that the range of 27 to  20 30 percent provided by Lazard was reasonable?  21 MR. KOTWICK: Objection to the form.  22 MR. KOH: Objection.  23 MR. SIDMAN: Objection.  24 A. I think Lazard made a reasonable  25 attempt to take the base-case scenario and</p>	<p style="text-align: right;">Page 176</p> <p>1 Pfeiffer - Confidential  2 page 28 in doing that correction; is that correct?  3 A. Yes.  4 Q. Where do you get the numbers from the  5 chart on 28, Table 1, which led you to correct  6 what appears in paragraph 26?  7 A. If you look at page 28 and you look at  8 the first shaded box, referring to the  9 rehabilitation plan, so you'll see on the right  10 side of that box there's recovery amounts of 217  11 to 340.  12 Then when you take those dollar amounts  13 and translate them to percentages, it results in  14 the range that's directly below that of 19 to 22  15 percent on a nominal claim basis and 24 to 28  16 percent on the discounted claim basis. And those  17 are the numbers that should be in paragraph -- the  18 end of paragraph 26.  19 Q. Are there any other changes in this  20 report that you want to make today?  21 A. No.  22 Q. Can you turn to paragraph 31 under the  23 heading "calculation of projected cash flows from  24 the rehabilitation plan."  25 MR. KOTWICK: Joe, if we're going to</p>
<p style="text-align: right;">Page 175</p> <p>1 Pfeiffer - Confidential  2 discount them back to arrive at a conclusion  3 relative to the net present value to the aggregate  4 recoveries -- the aggregate recoveries divided by  5 the net present value of all permitted policy  6 claims.  7 I don't have an opinion relative to  8 whether 27 to 30 percent is reasonable or not.  9 Q. You did no analysis to determine  10 whether that was reasonable; is that correct?  11 A. No, my focus was on the FGIC-insured  12 trusts.  13 Q. And do you think that their calculation  14 was made in good faith?  15 A. Yes.  16 Q. You then did a calculation for the  17 FGIC-insured trusts as described in the last  18 sentence; is that correct?  19 A. That's correct, although the sentence  20 has a typo in it.  21 Q. The 28 percent should be 29?  22 A. I think the 18 to 23 should be --  23 should be 19 to 22, and the 22 to 28 should be 24  24 to 28.  25 Q. And you were referring to the table on</p>	<p style="text-align: right;">Page 177</p> <p>1 Pfeiffer - Confidential  2 change subjects, can we take a quick break,  3 five minutes?  4 MR. BAIO: I'm okay with that. The  5 witness needs to hustle. That's why I'm  6 hustling. That's fine. Let's take the five.  7 MR. KOTWICK: I appreciate that.  8 (Recess taken from 2:04 to 2:13.)  9 Q. Going back to paragraph 12 in your  10 report, Exhibit 1.  11 A. Going backwards now?  12 MR. KOTWICK: I thought we were making  13 progress.  14 A. Okay.  15 Q. You state at the end that it is your  16 conclusion that the commutation payment amount of  17 approximately \$25.3 million falls within a  18 reasonable range given the expected cash flows  19 associated with the projected payments.  20 What is your reasonable range?  21 MR. KOTWICK: Objection to form.  22 MR. SIDMAN: Objection to form. You  23 also misstated the amount.  24 MR. BAIO: Sorry. I'll do it again.  25 Q. "It is my conclusion that the</p>

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<p style="text-align: right;">Page 178</p> <p>1 Pfeiffer - Confidential      2 commutation amount of approximately \$253.3 million      3 falls within a reasonable range given the expected      4 cash flows associated with the projected      5 payments."</p> <p>6 What is the reasonable range that you      7 came up with?</p> <p>8 A. I wouldn't define the range as a      9 specific number with a beginning and an end. If      10 you look at our presentation, you'll note numbers,      11 but I don't -- that's not really the range that's      12 referred to in this paragraph. The reference here      13 is that it is within the range of reasonableness      14 in a more qualitative way than a quantitative way.</p> <p>15 Q. So you didn't formulate a reasonable      16 range in a dollar amount? Is that your testimony?</p> <p>17 A. My testimony is, as I stated a moment      18 ago, that I concluded a range with respect to      19 purely the dollar amounts as reflected on page 3      20 but --</p> <p>21 Q. And what is that range? I just want to      22 get that. Then you can add whatever you want to      23 it. But what is the range?</p> <p>24 A. There's a range of -- the range on page      25 3 is the range of the present value of the</p>	<p style="text-align: right;">Page 180</p> <p>1 Pfeiffer - Confidential      2 focused on the range of reasonableness in      3 consideration of not just the cash payments as      4 outlined towards the bottom of page 3 of the      5 Attachment 3 but also the risks and benefits that      6 are -- that are incorporated on that page.</p> <p>7 Q. And you didn't quantify those risks and      8 benefits; is that correct?</p> <p>9 MR. KOH: Objection to form.</p> <p>10 Go ahead.</p> <p>11 A. That's correct, as of May 15th, as of      12 this presentation, with certain exceptions. As of      13 May 15th, we did quantify the benefit of not      14 having to pay future premiums. That's worth \$18      15 million, approximately \$18 million. So that was      16 quantified --</p> <p>17 Q. Okay.</p> <p>18 A. -- and included in our analysis.</p> <p>19 Then subsequent to that presentation,      20 we also quantified the \$92 million of benefit to      21 the trusts associated with the plan settlement      22 agreement that would come to the trusts based on      23 the rep and warranty claims.</p> <p>24 Q. But the 92 million would be on the left      25 side under your analysis -- correct? -- not on the</p>
<p style="text-align: right;">Page 179</p> <p>1 Pfeiffer - Confidential      2 projected payments under the two different plans.      3 And that -- those numbers are 190 to 340.      4 However, that is not the range that is referred to      5 in paragraph 12.</p> <p>6 Q. What range is referred to in paragraph      7 12?</p> <p>8 A. Paragraph 12 is a reference to the fact      9 that 253 falls within a reasonable range.      10 Probably could have written it as falls within a      11 range of reasonableness, meaning that when you      12 consider not just the numbers that I referred to      13 on page 3 of Attachment 3 but also all the other      14 risks and benefits, 253 is within the range of      15 reasonableness.</p> <p>16 Q. So you can't identify a reasonable      17 range in a fixed dollar amount, starting point and      18 concluding point? Is that your testimony?</p> <p>19 MR. SIDMAN: Objection to form.</p> <p>20 MR. KOH: Objection.</p> <p>21 A. My testimony is that I would not put a      22 range, meaning I would not say that if the number      23 was 195 that's within a range and 330 is within a      24 range. I didn't view it that way because I'm not      25 focused on the range that's on page 3. I'm</p>	<p style="text-align: right;">Page 181</p> <p>1 Pfeiffer - Confidential      2 right side?</p> <p>3 MR. KOH: Objection to form.</p> <p>4 Q. That was in your analysis it somehow      5 increases the \$253 million cash payment. Does it      6 also ripple through the base scenario and stress      7 scenario in the absence of the plan -- the absence      8 of the settlement agreement?</p> <p>9 MR. KOTWICK: Objection to the form.</p> <p>10 MR. SIDMAN: Objection to form.</p> <p>11 MR. KOH: Same objection.</p> <p>12 A. The \$92 million does not impact the      13 cash payments that would be provided under the      14 FGIC plan that result in the net present value      15 that's estimated on page 3.</p> <p>16 So the range that you see on page 3 on      17 the right side of the page would not be impacted      18 by the \$92 million.</p> <p>19 Q. Under your analysis?</p> <p>20 A. Under my analysis, yes.</p> <p>21 Q. Would a commutation payment of \$240      22 million have fallen within what you view as a      23 reasonable range?</p> <p>24 MR. KOTWICK: Objection.</p> <p>25 A. We were not asked to draw that</p>

<p style="text-align: right;">Page 182</p> <p>1 Pfeiffer - Confidential  2 conclusion.  3 Q. And you cannot say under oath whether  4 in your view \$240 million would fall within a  5 reasonable range?  6 MR. KOH: Objection.  7 MR. KOTWICK: Objection.  8 Q. Is that correct?  9 A. It likely would have, but we would have  10 to consider -- consider it and meet with -- and  11 meet with my colleagues and make a determination.  12 We as a firm and I sitting here today have not  13 drawn that conclusion relative to any other number  14 except for the 253 and the terms of the proposal  15 as they're stated here today.  16 Q. How about a \$190 million payment, would  17 that fall within a reasonable range, based on all  18 the work that you did for the months and months  19 that you worked as a commutation payment, compared  20 to everything that you know and all the work that  21 you've done?  22 MR. KOH: Objection.  23 MR. KOTWICK: Objection to form.  24 Q. Is that a reasonable settlement amount?  25 MR. SIDMAN: Objection.</p>	<p style="text-align: right;">Page 184</p> <p>1 Pfeiffer - Confidential  2 side, the amount of the payment. All other things  3 remaining equal, can you testify today that \$190  4 million falls within the range of reasonableness?  5 MR. KOH: Objection.  6 MR. KOTWICK: Objection.  7 MR. SIDMAN: Objection.  8 Q. "Yes" or "no"?  9 A. I think I answered that \$190 million  10 was not considered by us as a proposal, and we  11 have not made a determination with respect to its  12 reasonableness.  13 Q. So you can't say, as you sit here,  14 based on everything that you've done, whether in  15 your view \$190 million would fall within a  16 reasonable range; is that correct?  17 MR. KOH: Objection.  18 MR. SIDMAN: Objection.  19 A. That's correct. I can guess, but I  20 would not have done the work, and I have not made  21 a determination with respect to that number or 240  22 million or any other number besides 253.  23 Q. How about \$150 million, as a  24 commutation payment. As you sit here today and  25 based on all the information that you've done and</p>
<p style="text-align: right;">Page 183</p> <p>1 Pfeiffer - Confidential  2 A. Similar to the answer that I gave you  3 on the \$240 million, we have not been asked nor  4 have I spent the time to assess a \$190 million  5 proposal.  6 Q. And as you sit here today, based on  7 everything that you know and all the information  8 that you have absorbed in the months you have  9 worked on this, you cannot say whether \$190  10 million falls within a reasonable range in your  11 estimation; is that correct?  12 MR. KOH: Objection.  13 MR. KOTWICK: Objection.  14 MR. SIDMAN: Objection.  15 A. I could tell you that we likely would  16 think that \$190 million is not within a reasonable  17 range. However, I have not done the analysis to  18 fully -- to fully appreciate the benefits of \$190  19 million relative -- and all the other dollars that  20 would come along with that relative to the  21 rehabilitation plan.  22 So I'm not in a position right now to  23 draw a firm conclusion with respect to any other  24 number except to the 253.  25 Q. I'm just talking about the left-hand</p>	<p style="text-align: right;">Page 185</p> <p>1 Pfeiffer - Confidential  2 all the data you've absorbed and all the analyses  3 you've performed, can you say whether \$150 million  4 would fall within the reasonable range of a  5 settlement?  6 MR. KOTWICK: Objection to form.  7 MR. KOH: Objection.  8 MR. SIDMAN: Objection.  9 A. When you get to 150 million, I am much  10 more confident that it is not within a reasonable  11 range given the fact the initial CPP is  12 approximately \$150 million.  13 Q. How about \$160 million, what's your  14 view of that number? Slightly more than the  15 initial CPP under certain scenarios. Do you have  16 a view as to whether that falls within a range of  17 reasonableness?  18 MR. KOTWICK: Objection to the form.  19 A. I'd rather not get drawn into a  20 discussion about 160, 170, 180, 190, 200. Like I  21 said, we did not establish a range in that way  22 that anything outside this range is reasonable  23 and -- is unreasonable and in the range is  24 reasonable, because there are a lot of other  25 considerations beyond those numbers.</p>

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<p style="text-align: right;">Page 186</p> <p>1 Pfeiffer - Confidential  2 So my answer for 160 is the same answer  3 as I gave you for 190 and the same answer as I  4 gave you for 140.  5 Having said that, the closer you get to  6 150 the more likely I am to tell you that the  7 commutation proposal at that number is not  8 reasonable.  9 Q. Well, what is the payment anticipated  10 under the rehabilitation plan as the initial CPP?  11 A. In our estimation it's approximately  12 \$150 million.  13 Q. And with that you can't say, as you sit  14 here today, whether an additional \$10 million of  15 an initial payment added to the 150 for a total of  16 160 falls within the range of reasonableness in  17 your view based on the estimations and the  18 evaluations that you did?  19 MR. KOH: Objection.  20 MR. KOTWICK: Objection to form, asked  21 and answered.  22 Q. Is that correct?  23 MR. SIDMAN: Objection.  24 A. As I said before, the closer the number  25 gets to 150, the lower it gets, the more likely I</p>	<p style="text-align: right;">Page 188</p> <p>1 Pfeiffer - Confidential  2 associated with the plan and whether the trusts  3 are likely to get an additional \$10 million out of  4 that plan and whether on the other side the  5 benefits of the waived premiums of 18 million and  6 the -- and the fact that they're part of an  7 integrated plan which allows the resolution of all  8 the ResCap litigation -- and as I mentioned  9 earlier the \$92 million -- whether how that value  10 offsets the potential cash flows from the  11 rehabilitation plan with all the risks inherent in  12 those cash flows.  13 Q. Well, you've already evaluated the  14 potential cash flows from the rehabilitation plan;  15 correct? Those don't change?  16 A. We've evaluated the present value of  17 the cash flows based on our estimation of the  18 claims that we would put forth and the cash  19 available under the rehabilitation plan.  20 Q. And that doesn't change. You don't  21 need to do any further analysis; is that correct?  22 A. We don't need to do any further  23 analysis to arrive at the conclusions that are on  24 page -- the right side of page 3 in my attachment.  25 However, if you are to ask me about a number</p>
<p style="text-align: right;">Page 187</p> <p>1 Pfeiffer - Confidential  2 am to determine that the number is not reasonable.  3 We have not done that analysis, you know.  4 And we can go over and over again the  5 same question with regard to all different  6 numbers. My answer will be the same, that as the  7 number goes lower and lower, it's less likely  8 reasonable. As the number gets higher and higher,  9 it's going to be more reasonable.  10 The only number that we made a  11 determination on is 253 and the other benefits  12 associated with that, including the waived  13 premiums and the fact there's a global resolution  14 and all the other ResCap-related litigation  15 issues.  16 And so my answer hasn't changed.  17 Q. What work would you have to do to be  18 able to address whether a payment of \$160 million  19 would fall within a reasonable range?  20 MR. KOTWICK: Objection to the form.  21 A. We have to consider the fact that \$160  22 million is well south of the present value of the  23 expected payments for the rehabilitation plan.  24 And so since the number is south of the expected  25 payments, we would have to consider all the risks</p>	<p style="text-align: right;">Page 189</p> <p>1 Pfeiffer - Confidential  2 outside the range, outside these numbers that are  3 on the right side, so outside the 190 or outside  4 the 340, I would then have to consider the risks  5 associated with the cash flows -- well, is it  6 possible that the cash flows would get worse than  7 the stress scenario and is it possible that the  8 benefits that I'm getting by the proposal,  9 including the premiums and the inclusion in the  10 plan settlement agreement, offset the fact that,  11 you know, the hypothetical proposal as you  12 presented it is below the range of the present  13 value associated with the cash flows from the  14 plan.  15 Q. 160 is below 190. Am I right about  16 that?  17 A. You are correct about that.  18 Q. Okay. And are you at all concerned  19 that the range that you came up with is 190 to  20 340, that it's so wide? Do you have any concerns  21 about that?  22 MR. SIDMAN: Objection to form.  23 A. I do not, no.  24 MR. BAIO: I'm going to ask the  25 reporter to mark as the next exhibit a</p>

<p style="text-align: right;">Page 190</p> <p>1 Pfeiffer - Confidential  2 multipage document with the Bates numbers  3 PFEIFFER 400 to PFEIFFER 437.  4 (Pfeiffer Exhibit 5, FGIC financial  5 statements as of 3/31/13, Bates-stamped  6 PFEIFFER 400 to PFEIFFER 437, marked for  7 identification.)  8 Q. Have you seen Exhibit 5 before?  9 A. I have.  10 Q. What is it?  11 A. The financial statements for FGIC as of  12 March 31st, 2013.  13 Q. What is it your understanding as to  14 what the information contained in this document  15 represents, in general?  16 A. It represents the balance sheet  17 statement of operations and statement of cash  18 flows and the notes associated to all those  19 financial statements for FGIC as of March 31st,  20 2013.  21 Q. Are these the financial statements for  22 FGIC for that period on a statutory basis, or is  23 that your understanding?  24 A. Yes.  25 MR. KOH: Objection.</p>	<p style="text-align: right;">Page 192</p> <p>1 Pfeiffer - Confidential  2 recoveries of 1 million -- 1 billion, sorry, 58  3 million 632.  4 Do you see that number?  5 A. I do.  6 Q. Do you know what that reflects?  7 A. I know what's described on the next  8 page as to what it's meant to reflect, yes.  9 Q. And what is your understanding as to  10 what that reflects, that 1 billion 58 million 632  11 dollar figure?  12 MR. KOTWICK: Objection to form.  13 Q. 632,000 dollar figure?  14 A. It is meant to describe gross projected  15 recoveries, and those are referenced on the top of  16 page 30. I'm aware of the fact that one of the  17 plaintiff's experts mischaracterized this as an  18 estimation for material litigation, and I'm  19 confident that that's not what this represents.  20 Rather, it represents total gross  21 projected recoveries that -- again, we can read  22 the paragraph if you'd like. But it says that --  23 it says that it can include claims for breaches of  24 reps and warranties by the originator or others,  25 obtaining appraisals of collateral or reviews of</p>
<p style="text-align: right;">Page 191</p> <p>1 Pfeiffer - Confidential  2 Q. What is your understanding as to  3 statutory basis? What does that mean to you?  4 A. Meets the requirements.  5 Q. And are they different from GAAP, so  6 far as you understand?  7 (Pause.)  8 Q. I withdraw the question, if it's that  9 complicated.  10 Can you turn to page 29. Are you on  11 29?  12 A. No, I was still trying to point you to  13 the paper -- pages in this financial statements  14 that describe the differences between GAAP and  15 statutory statements.  16 Q. I withdraw that question.  17 A. Now you're asking me about page 29.  18 Q. Yep. I'm trying to move it along?  19 MR. WEITNAUER: Bates number 29?  20 MR. BAIO: No, Bates number 430.  21 MR. WEITNAUER: Okay.  22 A. Okay.  23 Q. You see a chart risk category 4?  24 A. I do.  25 Q. There is a reference to gross projected</p>	<p style="text-align: right;">Page 193</p> <p>1 Pfeiffer - Confidential  2 loan files, enforcing collateral provisions and  3 covenants of a servicing or others, more frequent  4 meetings with the issuer or servicer, evaluating  5 the financial position of the originator or  6 servicer, renegotiation of financial covenants,  7 triggers or terms of servicing, enforcing rights  8 to remove and replace the servicer, evaluation of  9 restructuring plans or bankruptcy proceedings, and  10 in some cases litigation or arbitration as and  11 where appropriate.  12 Q. And do you know the extent to which it  13 includes amounts estimated for recoveries for  14 breach of representation and warranty claims by  15 the originator or others?  16 A. I do not.  17 Q. Do you know the extent to which it  18 includes an evaluation of restructuring plans or  19 bankruptcy proceedings or in some cases litigation  20 or arbitration?  21 A. I do not.  22 Q. Do you know what the components are on  23 the dollar basis of the 1 billion 58 million  24 dollar figure?  25 A. I do not know the specific components,</p>

<p style="text-align: right;">Page 194</p> <p>1 Pfeiffer - Confidential  2 no.</p> <p>3 Q. Did you include that figure, that is,  4 that amount, the billion 58 million 632 thousand  5 dollars in your evaluations of potential  6 recoveries in the absence of a settlement  7 agreement?</p> <p>8 A. It's my understanding that it's already  9 included -- the great majority of it if not all of  10 it is already included in the FGIC rehabilitation  11 plan, the cash flows that are provided in the --  12 provided for in the affidavit and described in the  13 affidavit by Mr. Miller of Lazard.</p> <p>14 Q. And what is your understanding based  15 on?</p> <p>16 A. Based on the fact that Lazard told us  17 that they can make no estimation of the litigation  18 recoveries and therefore these litigation  19 recoveries -- if an amount of this 1058632 was to  20 be litigation recoveries, they would have provided  21 us that estimate.</p> <p>22 And from an accounting perspective,  23 they specifically noted that they were not able to  24 make that. It's not probable and estimable. And  25 therefore all other considerations are included in</p>	<p style="text-align: right;">Page 196</p> <p>1 Pfeiffer - Confidential  2 Q. -- which is attached as Exhibit 1. If  3 you look at page 9 under A, the report states, "A  4 majority of the notional claims for the ResCap  5 RMBS trust policyholders are presented within the  6 first five years post emergence in both high" --  7 "both low and high cases."</p> <p>8 Do you see that language?</p> <p>9 A. I do.</p> <p>10 Q. Where did you get that from?</p> <p>11 A. We estimated claims on an annual basis,  12 and we added up the first five years of those  13 projected claims and noted that the majority of  14 the claims are in those first five years.</p> <p>15 Q. What data did you use to do that  16 analysis?</p> <p>17 A. The claims are estimated as described  18 in my report on -- in Section 7, starting on page  19 16. It describes how we went about projecting  20 claims. Beginning in paragraph 34, I should say,  21 on page 17.</p> <p>22 Q. It says that you used, in paragraph 35,  23 the balance of active loans to provide the total  24 population of loans.</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 195</p> <p>1 Pfeiffer - Confidential  2 the rehabilitation plan as provided by FGIC and  3 described by Lazard. And therefore, you know,  4 it's my estimation that that includes all such  5 potential recoveries.</p> <p>6 And to the extent that the recovery is  7 the type that is recoverable by the trusts, the  8 trusts themselves would still be the beneficiary  9 of those recoveries even after the settlement  10 agreement is agreed upon.</p> <p>11 Q. That's your understanding?</p> <p>12 A. Yes.</p> <p>13 Q. And that's how you get the \$92 million,  14 or that's where it's derived from? Is that  15 correct or not?</p> <p>16 MR. KOTWICK: Objection.</p> <p>17 MR. WEITNAUER: Objection.</p> <p>18 MR. KOH: Object.</p> <p>19 MR. SIDMAN: Objection.</p> <p>20 A. No, the \$92 million is something else.</p> <p>21 Q. Can you look at your presentation of  22 March 15th, 2013 --</p> <p>23 MR. KERR: You said May 15th?</p> <p>24 MR. BAIO: Did I say March? I mean  25 May.</p>	<p style="text-align: right;">Page 197</p> <p>1 Pfeiffer - Confidential  2 A. Yes.</p> <p>3 Q. Where did you get that data from?</p> <p>4 A. INtex.</p> <p>5 Q. And what did you do on INtex in order  6 to secure that information? How did you go about  7 it?</p> <p>8 A. My team -- you know, if you have the  9 trust information, then you could put that into  10 INtex and it will tell you the balance of the  11 active loans.</p> <p>12 Q. And your team ran these -- the analysis  13 that's identified in paragraphs 34 and the  14 following paragraphs; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Did you retain any of the analyses that  17 your team did in connection with that evaluation?</p> <p>18 A. Yes.</p> <p>19 Q. And did you provide it to us?</p> <p>20 A. I believe we did, yes.</p> <p>21 Q. In what form?</p> <p>22 A. I believe in Excel.</p> <p>23 Q. And that Excel the INtex -- INtex, is  24 that the word -- the INtex analyses that your team  25 provided or that your team undertook?</p>

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<p style="text-align: right;">Page 198</p> <p>1 Pfeiffer - Confidential  2 MR. KOTWICK: Objection to form.  3 A. It provides the -- it provides the  4 results of our claim analysis on a -- on a trust-  5 by-trust basis and the results as summarized on  6 page 8 and 9 of the presentation. It provides  7 more detail with respect to the range of claim  8 estimates that we came up with.</p> <p>9 Q. And if you look at the chart on page 8  10 of your May 15th presentation, there are a series  11 of percentages in the low case and the high case.  12 Let's take the low case first. 65 percent, 80  13 percent, 86 percent, do you see those numbers?</p> <p>14 A. I do.</p> <p>15 Q. Where did they come from?</p> <p>16 A. Those are the same numbers we described  17 earlier, that as of the end of 2012 the accrued  18 and unpaid amount as \$753 million. And therefore  19 the notional claim for these ResCap insured --  20 FGIC-insured trusts at the end of 2012 was 753.  21 Then as we described earlier, you know, it's 789  22 or whatever it is as of March.</p> <p>23 Then you project that claim amount  24 through the next five years, and it's projected,  25 as you see here on the page, that the number will</p>	<p style="text-align: right;">Page 200</p> <p>1 Pfeiffer - Confidential  2 would expect to see in the coming years. So  3 that's what's referred to as the roll rate  4 matrices, and that's -- those rates are referred  5 to as the conditional prepayment rates and  6 conditional default rates. And you take those  7 estimates and put them into INtex to arrive at an  8 estimate claim, projected claim.</p> <p>9 Q. You then have, in paragraph 37,  10 prepared forecast cash flows under various  11 scenarios. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And that's the high and the low  14 scenarios that you and your team generated; is  15 that correct?</p> <p>16 A. Yes.</p> <p>17 Q. What were those high and low scenarios  18 based on?</p> <p>19 A. Based on taking those results, results  20 that came out of our model, with the various rates  21 that we just described. It results in a  22 particular forecast. And those forecasts are  23 based on, as I described, the CPR and CDR severity  24 assumptions.</p> <p>25 And cognizant of the fact that there's</p>
<p style="text-align: right;">Page 199</p> <p>1 Pfeiffer - Confidential  2 increase between 2013 and 2017 but an additional  3 \$173 million. And therefore that brings the  4 cumulative claim from 65 percent up to 80 percent.  5 And those numbers were all derived and  6 calculated consistent with the description that is  7 provided in the section of the report we were just  8 looking at, paragraph 34 through 40.</p> <p>9 Q. In paragraph 36 there's a references to  10 roll rate transition matrices. Are those also  11 found on INtex?</p> <p>12 A. No, you have to provide that as an  13 input to INtex.</p> <p>14 Q. And would that be based on assumptions,  15 that is, the input that you and your team put in,  16 is that based on any assumptions?</p> <p>17 A. Yes.</p> <p>18 Q. What assumptions?</p> <p>19 A. Well, as described, you have -- the  20 roll rate transition matrices are -- they're used  21 to calculate, as it says in paragraph 36, monthly  22 prepayment and default rates for each trust.</p> <p>23 So you look at prepayment and default  24 rates for each trusts historically, and then you  25 look at rolling that forward to determine what you</p>	<p style="text-align: right;">Page 201</p> <p>1 Pfeiffer - Confidential  2 some estimation involved in those forecasts, in  3 order to arrive at a low and a high range, we  4 stress -- we apply a sensitivity to those  5 assumptions by taking 10 percent off the bottom  6 and adding 10 percent to the top for each of these  7 assumptions. So you see that described in  8 paragraph 37.</p> <p>9 Q. And what did you base those assumptions  10 on, the high case and low case? Why 10 percent as  11 opposed to some other number?</p> <p>12 A. Our judgment is that it makes sense to  13 provide some sensitivity to those numbers, and 10  14 percent variance was consistent with what we did  15 for many other clients facing similar  16 circumstances.</p> <p>17 I note, by the way, that this is  18 exactly what we did for estimating losses for all  19 the trusts, not just the FGIC wrapped trusts, but  20 all the 392 trusts that were part of the 9019  21 settlement and estimating claims for the  22 nonsettling -- additional and nonsettling trusts.</p> <p>23 We used the same exact methodology. We  24 did not change our methodology relative to looking  25 at the settlement proposal; rather, we just took</p>

<p style="text-align: right;">Page 202</p> <p>1 Pfeiffer - Confidential  2 that information and looked at the 47 trusts that  3 are the focus of the settlement to look at what  4 the expected losses -- claims might be.  5 Q. And do you have documents that reflect  6 the analysis that you did with respect to the more  7 than 47 trusts, the entire population?  8 A. Yes.  9 Q. And have you provided them to us?  10 A. I don't think so, no.  11 MR. BAIO: We're asking for them now.  12 MR. GELFARB: Freddie Mac joins in that  request.  14 MR. KOH: We'll consider your request.  15 Q. In paragraph 39 you then say, "D&amp;P then  applied the assumptions resulting from the above-  described methodology."  18 Do you see that?  19 A. Yes.  20 Q. So those are assumptions that result  from this analysis; is that correct?  22 A. Paragraph 39 refers to applies  assumptions from the above-described methodology  on a trust-by-trust basis according to the trusts'  25 payment structures, kind of the waterfall within</p>	<p style="text-align: right;">Page 204</p> <p>1 Pfeiffer - Confidential  2 Q. And have you come up with any numbers  3 as a result of that continuing to look at it?  4 A. No conclusions have been arrived at  5 that are different than this estimated range.  6 Q. Have the numbers gone up or down?  7 MR. KOH: Objection.  8 Q. Based on whatever your ongoing analysis  9 is.  10 MR. KOH: Objection.  11 A. They have not gone up or down. We have  12 not concluded on a different number.  13 Q. Let's go to the discount rate. I'd  14 like you to look at paragraphs 52 and those that  15 follow. I'll ask you questions about it.  16 The first question is in paragraph 53  17 is it accurate that you attempted to determine an  18 appropriate and reasonable rate at which to  19 discount future cash flows?  20 A. Yes.  21 Q. And relied on your experience,  22 independent sources of discount rate calculations,  23 namely Ibbotson; is that correct?  24 A. Yes.  25 Q. And you selected the SIC -- is it SIC</p>
<p style="text-align: right;">Page 203</p> <p>1 Pfeiffer - Confidential  2 the trusts.  3 Q. But the result of the above-described  4 methodology is to generate assumptions that are  5 then applied on a trust-by-trust basis; is that  6 correct?  7 MR. KOH: Objection, form.  8 A. There's an assumed level of claim  9 amount for each trust, and those assumptions are  10 then used -- there's assumed levels of claims --  11 claim amounts for each trusts are then analyzed  12 further on a -- within each trust on a tranche --  13 if you look at the payment structures within the  14 trust.  15 Q. And based on that analysis, you came up  16 with a \$409 million estimated policy claim amount  17 in the low case and 793 million in the high case;  18 is that correct?  19 A. That's correct as of December 31st,  20 2012.  21 Q. Have you updated any of that data?  22 A. Not at the time of this report.  23 Q. How about since the time of the report?  24 A. I think we're continually looking at  25 it.</p>	<p style="text-align: right;">Page 205</p> <p>1 Pfeiffer - Confidential  2 codes? What do you call them?  3 A. I call them SIC.  4 Q. SIC for surety insurance and insurance  5 carriers; correct?  6 A. Correct.  7 Q. Why did you include those?  8 A. They seemed to be most closely  9 correlated with the industry that FGIC operates  10 in.  11 Q. Did you consider or test any other SIC  12 besides surety insurance and insurance carriers to  13 evaluate an appropriate discount rate?  14 A. No.  15 Q. Did you consider the fact that FGIC is  16 no longer writing business in evaluating whether  17 the discount rate should be higher or lower than  18 these percentages?  19 A. Yes.  20 Q. And what did you conclude?  21 A. That because they are no longer writing  22 policies that they don't have that stability of  23 cash flows or ability to generate additional cash  24 flows from that stream, and associated with that  25 their rehabilitation subject to all kinds of</p>

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<p style="text-align: right;">Page 206</p> <p>1 Pfeiffer - Confidential      2 uncertainties.      3 And we felt the risk -- given their      4 current predicament their risk and therefore the      5 discount rate range would be higher, likely, than      6 the average range that you'd find in Ibbotson.      7 Q. In the Ibbotson analysis that you      8 performed, did you view any one of those entities      9 that resulted from your analysis as an outlier?      10 A. We did not -- we did not look at an      11 entity-by-entity basis to look at which ones would      12 be outliers.      13 Q. You did not do that?      14 A. No.      15 Q. So you don't know whether the 19      16 percent figure is the result of an outlier?      17 MR. SIDMAN: Objection.      18 MR. KOTWICK: Objection to the form.      19 A. It was more important for us to look at      20 the general range. We did pay specific attention      21 to MBIA and its beta on the higher end of that      22 range, didn't -- we didn't go about analyzing each      23 company within that range to determine whether      24 it's an outlier or not.      25 Q. Did you consider -- strike that.</p>	<p style="text-align: right;">Page 208</p> <p>1 Pfeiffer - Confidential      2 A. I think that the first sentence refers      3 to the regulatory filings and refers to the      4 billion dollars in gross recoveries as resulting      5 from various loss mediation activities.      6 If you look at the financial statements      7 themselves, they are not characterized as simply      8 loss mediation activities such as the pursuit of      9 litigation claims. Rather, it is described as      10 gross projected recoveries.      11 Q. And in your view they are not loss      12 mediation activities that are identified in the      13 paragraph that you drew my attention to; is that      14 correct?      15 A. What I am saying, to be accurate, is      16 it's misrepresented here as simply loss mediation      17 activities such as the pursuit of litigation      18 claims, as if to say that it's basically I'm going      19 to take it as -- he's going to take it --      20 Mr. Goldstein is going to take it as if it is      21 litigation claims.      22 And I read the financial statements      23 very differently.      24 Q. So you read that sentence that      25 Mr. Goldstein is referring only to litigation</p>
<p style="text-align: right;">Page 207</p> <p>1 Pfeiffer - Confidential      2      3 MR. BAIO: Let's take a short break. I      4 want to look at my notes, and we'll see where      5 we are.      6 (Recess taken from 2:56 to 3:03.)      7 MR. BAIO: Let's mark as the next      8 exhibit, Exhibit 6, the expert witness report      9 of Charles Goldstein.      10 (Pfeiffer Exhibit 6, expert report of      11 Goldstein, marked for identification.)      12 Q. Have you seen Exhibit 6 before?      13 A. I have.      14 Q. Have you read it?      15 A. I've reviewed it.      16 Q. Okay.      17 A. I don't think I read every word, but I      18 did review it.      19 Q. Can you look at paragraph 29?      20 A. Okay.      21 Q. Do you believe that anything in      22 paragraph 29 is inaccurate?      23 MR. KOTWICK: Objection.      24 A. Yes.      25 Q. What?</p>	<p style="text-align: right;">Page 209</p> <p>1 Pfeiffer - Confidential      2 claims?      3 A. I read it in connection with the      4 section that it's in, and the fact that it follows      5 paragraph 28 and the paragraphs right before it      6 that refer to -- that refer to material litigation      7 that the insinuation, if not the exact statement,      8 here is that the billion dollars relates to      9 litigation claims.      10 And I don't see that to be accurate and      11 nor do I think that's what's represented in the      12 financial statements.      13 Q. Is there anything else inaccurate in      14 that paragraph?      15 MR. WEITNAUER: Objection.      16 MR. KOTWICK: Objection to the form.      17 A. Yes.      18 Q. What?      19 A. I don't know how Mr. Goldstein would      20 know that these recoveries were not included in      21 our assessment of whether the 253 was within the      22 range of reasonableness.      23 Q. Do you believe that the recoveries were      24 included in your assessment of whether the 253 was      25 within the range of reasonableness?</p>

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<p style="text-align: right;">Page 210</p> <p>1 Pfeiffer - Confidential  2 A. My understanding is that the great  3 majority, if not all, the gross projected  4 recoveries are included in the cash flows that  5 were provided as part of the rehabilitation plan.  6 Q. And have you confirmed that with FGIC  7 or Lazard?  8 A. I have not spoken to FGIC and Lazard  9 about that.  10 Q. Have you learned that FGIC and Lazard  11 believe that it is included in their evaluation?  12 A. I have learned from our -- from our  13 analysis and assessment of the situation and going  14 back to the -- what was discussed in that meeting  15 that everything's included in the plan except for  16 the various items that we discussed earlier,  17 including material litigation on both the  18 plaintiff and the defense side, and those that are  19 not included because they weren't estimable and  20 probable.  21 And therefore the number that's  22 reflected in the financial statements is not -- it  23 seems to me that would be the kind of number that  24 is included in the rehabilitation plan.  25 MR. BAIO: I pass the witness, as we</p>	<p style="text-align: right;">Page 212</p> <p>1 Pfeiffer - Confidential  2 A. I don't recall if in one of the  3 depositions I provided related to Oakwood, which  4 is a liquidation trust in the real estate sector.  5 I don't recall whether I testified in that matter  6 in deposition with respect to RMBS at all.  7 In addition I testified last year --  8 no, two years ago in an arbitration related to a  9 hedge fund, and that hedge fund -- that hedge  10 fund's assets included RMBS securities.  11 Q. Which hedge fund was that?  12 A. Aris. It's listed in my -- on my  13 résumé. And I don't recall to what extent I got  14 into the value of the RMBS securities.  15 Q. Which one is that, since I see  16 deposition you have a bunch on page 8 going  17 through to page 9?  18 A. Look on page 7 before that, before  19 deposition is a list at trial.  20 Q. Do any of the cases on page 8 or 9 for  21 which you indicate deposition testimony involved  22 RMBS?  23 A. As I just mentioned, on page 7 the Aris  24 case may have involved RMBS, and the case on page  25 9 -- 8 on the bottom, which is OHC Liquidation</p>
<p style="text-align: right;">Page 211</p> <p>1 Pfeiffer - Confidential  2 say.  3 MR. GOODMAN: Can we just go off the  4 record while we set up, please.  5 (Pause.)  6 EXAMINATION BY  7 MR. GELFARB:  8 Q. Good afternoon, Mr. Pfeiffer.  9 A. Good afternoon.  10 Q. My name is David Gelfarb. I represent  11 Freddie Mac in this matter as co-counsel.  12 Do you understand that you're still  13 under oath?  14 A. I do.  15 Q. Prior to this action, how many cases  16 were you involved in that implicated residential  17 mortgage-backed securities?  18 A. Somewhere between five and ten.  19 Q. Have you testified at trial in any  20 matters involving residential mortgage-backed  21 securities?  22 MR. GELFARB: Please note for the  23 record that the witness is looking at his  24 report.  25 (Pause.)</p>	<p style="text-align: right;">Page 213</p> <p>1 Pfeiffer - Confidential  2 Trust versus Credit Suisse where I worked on  3 behalf of Credit Suisse. I testified on behalf of  4 Credit Suisse in that matter. I don't recall  5 precisely to what extent RMBS was involved in that  6 case either.  7 Q. So can you just summarize, please, for  8 which cases you actually testified at trial? You  9 understand the difference between a trial and  10 deposition?  11 A. I do understand, yes.  12 Q. So which ones did you testify at trial,  13 actually testify at trial?  14 A. If you look at my résumé, page 7, trial  15 and arbitration testimony, so that one, two,  16 three, four, five, six -- those seven cases were  17 either trials or arbitrations.  18 Q. And which of them involved residential  19 mortgage-backed securities?  20 A. I think I just testified to the fact  21 that the case listed first, Aris, may have  22 involved RMBS securities.  23 Q. Have you ever been involved in a case  24 before that involved a commutation of insurance  25 policies?</p>

<p style="text-align: right;">Page 214</p> <p>1 Pfeiffer - Confidential</p> <p>2 A. I don't believe so.</p> <p>3 Q. What documents did you review in order</p> <p>4 to prepare for today's deposition?</p> <p>5 A. I reviewed my report. I reviewed the</p> <p>6 model that was provided to you in connection with</p> <p>7 this deposition, the underlying support documents</p> <p>8 and model that was provided to you. And I</p> <p>9 reviewed the plaintiff expert reports, reviewed</p> <p>10 FGIC financial statements, and reviewed the</p> <p>11 rehabilitation plan, the affidavit of Mr. Miller,</p> <p>12 some of the disclosure statement.</p> <p>13 That fairly summarizes the kind of</p> <p>14 documents I looked at.</p> <p>15 Q. Did you review the expert declaration</p> <p>16 of Mr. Gibson?</p> <p>17 A. I did.</p> <p>18 Q. Did you have any opinions on the</p> <p>19 reasonableness of his conclusions?</p> <p>20 A. I -- my review was somewhat cursory,</p> <p>21 but my conclusion, based on that cursory review,</p> <p>22 was that the expert has either been misinformed or</p> <p>23 has made certain mistakes with respect to his</p> <p>24 analysis.</p> <p>25 Q. How do you understand Mr. Gibson to</p>	<p style="text-align: right;">Page 216</p> <p>1 Pfeiffer - Confidential</p> <p>2 commutation plan?</p> <p>3 MR. KOH: Objection to form.</p> <p>4 A. I think we provided to you all the</p> <p>5 analysis that we've conducted with respect to the</p> <p>6 commutation. I don't recall a reference to 21</p> <p>7 cents specifically.</p> <p>8 MR. GELFARB: Let's go off to for a</p> <p>9 second.</p> <p>10 (Pause.)</p> <p>11 (Pfeiffer Exhibit 7, draft</p> <p>12 presentation, marked for identification.)</p> <p>13 Q. Mr. Pfeiffer, can you identify what's</p> <p>14 been marked as Exhibit 7?</p> <p>15 A. Yes.</p> <p>16 Q. And what is Exhibit 7?</p> <p>17 A. This is an earlier draft of the</p> <p>18 presentation I believe that was shared on May 5th</p> <p>19 or 6th, 2013.</p> <p>20 Q. Who was it shared with?</p> <p>21 MR. KOH: Objection.</p> <p>22 Go ahead and answer.</p> <p>23 A. It was shared initially with counsel</p> <p>24 for the trustees, and I believe that the trustees</p> <p>25 shared it with -- the trustees' counsel shared it</p>
<p style="text-align: right;">Page 215</p> <p>1 Pfeiffer - Confidential</p> <p>2 have been misinformed?</p> <p>3 A. I understood that his assessment of the</p> <p>4 claims didn't seem consistent with what I would</p> <p>5 expect. His reference to the commutation relative</p> <p>6 to that claim amount and his comparison of that</p> <p>7 percentage to the Lazard percentages were I think</p> <p>8 inappropriately compared.</p> <p>9 And if you put the report in front of</p> <p>10 me, it could perhaps remind me of a few other</p> <p>11 observations.</p> <p>12 Q. I believe you said he was misinformed</p> <p>13 and there was some other difficulty with his</p> <p>14 report. Did your prior answer, Mr. Pfeiffer,</p> <p>15 include where you believe Mr. Gibson made certain</p> <p>16 mistakes with respect to his analysis?</p> <p>17 A. Yes, I think the way he describes the</p> <p>18 commutation, I think he might refer to it as 21</p> <p>19 cents or 21.4 cents or whatever number he used in</p> <p>20 there. You know, that reference compared to the</p> <p>21 27 to 30 cents that he takes from Lazard I believe</p> <p>22 to be an inaccurate comparison.</p> <p>23 Q. Do you know whether you yourself ever</p> <p>24 prepared an analysis that included a 21 --</p> <p>25 approximately 21 cent payment under the</p>	<p style="text-align: right;">Page 217</p> <p>1 Pfeiffer - Confidential</p> <p>2 with the trustees as well.</p> <p>3 Q. You see on page 7 there's an entry,</p> <p>4 nominal recovery?</p> <p>5 A. I do.</p> <p>6 Q. And what is the amount of the nominal</p> <p>7 recovery?</p> <p>8 A. It says 19 to 20 percent.</p> <p>9 Q. And what does that represent?</p> <p>10 A. That likely represents the 220 to 285</p> <p>11 on the box on top of it compared to -- you know, I</p> <p>12 don't know.</p> <p>13 Q. Okay. So sitting here today you're not</p> <p>14 certain as to what the 19 to 20 percent</p> <p>15 represents, Mr. Pfeiffer?</p> <p>16 A. It's purported to represent a NOL</p> <p>17 analytical recovery, but I cannot -- I cannot</p> <p>18 re-create the math for you at this time.</p> <p>19 Q. Was this document prepared under your</p> <p>20 supervision?</p> <p>21 A. Yes, it was.</p> <p>22 Q. Is there any reason why in the May 15th</p> <p>23 analysis there's no similar entry for a percentage</p> <p>24 representing a nominal recovery?</p> <p>25 A. I think that we determined that there</p>

<p style="text-align: right;">Page 218</p> <p>1 Pfeiffer - Confidential  2 was a better way to present the numbers.  3 Q. Now let's go to page 7, paragraph 12,  4 of your report. Now, earlier Mr. Baio was  5 discussing with you the concept of the 253.3  6 million and the reasonable range. Do you recall  7 that?  8 A. Yes.  9 Q. Now, just so I understand this, there's  10 no particular numerical range that encompasses  11 that 253.3 million, is there?  12 MR. KOH: Objection.  13 Go ahead.  14 A. There are numerical ranges that are  15 part of our assessment of the 253.3, and those  16 numerical ranges are provided for on page 3 of  17 Attachment 3 of the report, the information piece  18 presentation. Those are numerical ranges, but  19 that's not the full scope of our consideration  20 with respect to our conclusion and the resulting  21 range of the 253.3.  22 Q. I understand that you put ranges on  23 page 3: one for the base scenario and there's one  24 for the stress scenario. And we'll set aside who  25 computed those numbers. But those numbers exist.</p>	<p style="text-align: right;">Page 220</p> <p>1 Pfeiffer - Confidential  2 number is within a range of reasonableness or we  3 often provide our clients with a range of  4 reasonable estimates for value. And sometimes  5 those numbers are bound by a low and a high end of  6 the range. It's very clear.  7 And other times there are additional,  8 less quantifiable benefits that make the range  9 something that has to be considered -- the numeric  10 and the soft benefits have to be considered in  11 conjunction with each other.  12 Q. Okay. So in this case, however, there  13 is no range of reasonable estimates for value, is  14 there?  15 A. I think I described earlier that  16 there's a range of present values of the cash  17 flows that result from the FGIC plan, and those  18 are described on page 3. And then in looking at  19 that relative to the 253, you consider those  20 numbers as well as the other risks and benefits  21 associated with the proposal and the plan.  22 Q. Can you give me -- or can you provide  23 an estimate of what the \$253.3 million represents  24 as a percentage of the trusts' claims?  25 MR. KOTWICK: Objection.</p>
<p style="text-align: right;">Page 219</p> <p>1 Pfeiffer - Confidential  2 Okay.  3 My question is is the 253.3 supposed to  4 fall into a range bordered by 190 and 240 or is it  5 supposed to be somewhere else or is there no  6 numerical range within which it falls.  7 MR. KOH: Objection.  8 A. It's not supposed to fall anywhere;  9 it's supposed to be considered as a payment in  10 comparison to the alternative, which is to receive  11 projected payments under the plan.  12 Q. Now, in your other engagements, whether  13 with Duff &amp; Phelps or otherwise, have you ever had  14 reason in a report to place a specific number, for  15 example, as the 253.3 is here, within a range that  16 is not bordered on the low end or high end by two  17 other numbers?  18 MR. KOTWICK: Object to form.  19 MR. KOH: Same objection.  20 THE WITNESS: Can you read back the  21 question, please.  22 (Record read.)  23 THE WITNESS: Yes.  24 Q. And when did you do that?  25 A. We often are looking at whether a</p>	<p style="text-align: right;">Page 221</p> <p>1 Pfeiffer - Confidential  2 A. Yes.  3 Q. And what is that percentage?  4 A. The 253 plus the 18 million is 271  5 million.  6 Q. Right.  7 A. And I can compute that number relative  8 to the nominal amount of the claims or the present  9 value of the claims and arrive at various numbers.  10 And those are -- based on our estimation of the  11 claims, those numbers are estimated in Table 1 of  12 my report.  13 Q. And that's on page 28?  14 A. Yes.  15 Q. And what is the amount of the -- for  16 the commutation proposal as discounted, it's 22 to  17 29?  18 A. Yes.  19 Q. In your report there's a footnote which  20 discusses the 40 percent haircut; correct?  21 A. Yes.  22 Q. Okay. That's Footnote 23 on page 16.  23 Now, did you testify earlier that one  24 of the reasons -- not the only reason but perhaps  25 one of the reasons for the haircut was the idea</p>

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<p style="text-align: right;">Page 222</p> <p>1 Pfeiffer - Confidential  2 that a lot of the claims were going to arise in  3 later years but the payment would come up soon?  4 MR. KOH: Objection.  5 MR. KOTWICK: Objection.  6 A. No.  7 Q. Can you take me through what your  8 analysis was with respect to the justification for  9 a haircut in terms of when the majority of claims  10 were going to arise?  11 A. Yes. This haircut is not our number,  12 and we did not calculate it. But as described to  13 us by Lazard and FGIC, the claims will be front-  14 loaded, the payments subsequent to that, and I  15 think in your question you might have reversed the  16 two.  17 But basically the claims will arise  18 more in the near term, and the payments, the CPP,  19 the payments as projected in the plan are over  20 many more years.  21 Q. Right. So then if that's the case, as  22 you say, the claims are front-loaded, wouldn't it  23 justify a lesser haircut? In other words, if the  24 claims occur in the near future, wouldn't one  25 thing that you would want to be paid in the near</p>	<p style="text-align: right;">Page 224</p> <p>1 Pfeiffer - Confidential  2 worth a dollar. But because the payments on that  3 claim are substantially in the future, the value  4 that I'm going to receive from that claim today --  5 on present value terms, the value that I'm going  6 to receive from those payments are going to be  7 well less than a dollar because I have to wait  8 three, four, five years to receive a portion -- a  9 recovery on the dollar of that claim.  10 So I might receive on a nominal basis  11 45 cents on the dollar; but because I have to wait  12 more years in order to receive that payment, the  13 present value is diminished.  14 Q. Now, FGIC here offered a present value  15 analysis, did they not? In other words, the  16 payments are being discounted?  17 A. FGIC offered a present value analysis  18 for the plan overall, not for the FGIC-insured  19 trusts in particular. So our job was to take the  20 FGIC-insured trusts and provide a present value  21 analysis for those.  22 Q. Isn't there a requirement that all  23 policyholders be treated fairly and equitably?  24 A. On --  25 MR. KOH: Objection.</p>
<p style="text-align: right;">Page 223</p> <p>1 Pfeiffer - Confidential  2 future for claims that arise in the near future?  3 MR. KOTWICK: Objection to the form.  4 A. The way this plan works, that's not --  5 that's not what occurs. What occurs is that  6 irrespective of -- even if your claim amount is  7 early on, you still have to wait for the -- for  8 the plan to allow you to receive your percentage.  9 And so you don't get the cash quicker all because  10 you have a claim earlier.  11 Q. That may be, but wouldn't it justify a  12 lower discount rate? If someone is going to  13 get -- excuse me, a lower haircut. If someone is  14 going to incur a loss sooner, wouldn't you expect  15 the haircut to be less than if they were going to  16 incur a loss way, way down the road?  17 MR. KOH: Objection.  18 MR. KOTWICK: Objection to form.  19 A. No, I think you're misunderstanding the  20 terms.  21 Q. Explain -- give me your explanation of  22 it, please.  23 A. Okay. The trust incurs a loss and has  24 a claim. That claim on a nominal basis on day one  25 might be worth a dollar, on a nominal basis is</p>	<p style="text-align: right;">Page 225</p> <p>1 Pfeiffer - Confidential  2 Go ahead and answer.  3 A. On a nominal basis, that's correct; but  4 on a present value basis, it's not.  5 Q. When you learned of the 40 percent  6 discount, did you express any surprise to FGIC  7 and/or Lazard?  8 A. We expressed a desire to understand all  9 the inputs for everything they provided to us and  10 everything that was publicly available, but our  11 focus was not at all on that 40 percent discount;  12 our focus was on the 253 relative to our  13 assessment of the claims and how they would be  14 treated in the context of the projected payments  15 under the rehabilitation plan.  16 Q. Did you suggest that the 40 percent be  17 either increased or decreased?  18 A. No.  19 Q. Did the trustees ever suggest to you  20 that the 40 percent should be higher or lower or  21 should stay the same?  22 A. No.  23 Q. Did the trustees ask whether this 40  24 percent discount was justifiable in your  25 discussions with them during that Web conference?</p>

<p style="text-align: right;">Page 226</p> <p>1 Pfeiffer - Confidential</p> <p>2 A. When the trustees asked about the 40</p> <p>3 percent, we described it in connection with what</p> <p>4 FGIC told us, as I just told you. However, we</p> <p>5 made sure the conversation related -- instead of</p> <p>6 to the 40 percent, which is a FGIC-derived number,</p> <p>7 we made sure the conversation turned instead to</p> <p>8 the 253 relative to the present value of the</p> <p>9 projected payments as we described them.</p> <p>10 Q. Now, the security holders would do</p> <p>11 better with a 20 percent haircut; correct?</p> <p>12 MR. KOTWICK: Objection to the form.</p> <p>13 MR. KOH: Objection.</p> <p>14 A. We didn't look at the numbers in the</p> <p>15 context of a haircut. The security holders would</p> <p>16 do better if they got 263 rather than 253 and</p> <p>17 would do better yet if they got 283. They would</p> <p>18 do worse if they got 243. How that number came</p> <p>19 about is less of an issue for us, actually not an</p> <p>20 issue for us whatsoever.</p> <p>21 Q. In your capacity as a financial</p> <p>22 advisor, you would not give advice on the</p> <p>23 reasonableness of that 40 percent haircut; is that</p> <p>24 correct?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 228</p> <p>1 Pfeiffer - Confidential</p> <p>2 inputs into INtex to provide to us more color.</p> <p>3 Q. Now, what do you mean in paragraph 35</p> <p>4 by the phrase a more robust loss estimation? What</p> <p>5 does that mean?</p> <p>6 A. It means that instead of just providing</p> <p>7 for blanket assumptions with respect to</p> <p>8 transition, roll rates, and CPR, CDR, severity,</p> <p>9 and so on, what we did was we looked at it on a</p> <p>10 cohort -- classified it into cohorts, product</p> <p>11 types, and vintages, so that we estimated for each</p> <p>12 cohort a different set of assumptions.</p> <p>13 Q. Did you analyze CPR for all 47 trusts</p> <p>14 separately?</p> <p>15 A. We analyzed CPR for each of those</p> <p>16 cohorts separately, and each of those trusts fit</p> <p>17 into a particular cohort. And therefore each</p> <p>18 trust would have its own CPR and CDR.</p> <p>19 Q. What do you mean by the term</p> <p>20 "sub-cohort"?</p> <p>21 A. If you look at page 17 going into page</p> <p>22 18, there are six categories: prime, all A,</p> <p>23 subprime, pay option arm, closed-end seconds, and</p> <p>24 open-end seconds. And so in creating sub-cohorts,</p> <p>25 we split subprime, for example, into additional</p>
<p style="text-align: right;">Page 227</p> <p>1 Pfeiffer - Confidential</p> <p>2 Q. Can you turn to paragraph 34 of your</p> <p>3 report. Now, you made an estimate of the future</p> <p>4 projected claims; correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you also projected future</p> <p>7 collateral performance?</p> <p>8 A. We projected security rates.</p> <p>9 Q. Did you go through all 47 trusts in</p> <p>10 estimating the future projected claims?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And when you say that you</p> <p>13 determined -- did you determine monthly prepayment</p> <p>14 rates?</p> <p>15 A. Yes.</p> <p>16 Q. And how did you do that?</p> <p>17 A. By looking at historical monthly</p> <p>18 prepayment rates and projecting forward what one</p> <p>19 would expect based on that.</p> <p>20 Q. And what service did you use to do</p> <p>21 that?</p> <p>22 A. We have a significant -- a team with</p> <p>23 significant expertise in that regard. We've done</p> <p>24 this for many clients. And as I mentioned</p> <p>25 earlier, we also provided those assumptions and</p>	<p style="text-align: right;">Page 229</p> <p>1 Pfeiffer - Confidential</p> <p>2 categories. And we split -- we might have had two</p> <p>3 categories for pay option arms.</p> <p>4 Q. Now, what is pay option arm? What</p> <p>5 would be the sub-cohorts? The sub-cohorts were</p> <p>6 not by year? There was not '04 sub-cohorts and</p> <p>7 '05 sub-cohorts?</p> <p>8 A. That's an additional, meaning there are</p> <p>9 six types and there are four vintages. So 6 times</p> <p>10 4 is 24. So there are 24 cohorts. So there's a</p> <p>11 pay option arm 2004 cohort, a pay option arm 2005</p> <p>12 cohort, a pay option arm 2006 cohort, and a pay</p> <p>13 option arm 2007 cohort. And we do the same thing</p> <p>14 for each of the product types. And then within</p> <p>15 the product types we also had sub-cohorts that</p> <p>16 were analyzed.</p> <p>17 Q. Now, besides INtex did you create your</p> <p>18 own model in determining expected losses on the --</p> <p>19 to be suffered by the trusts?</p> <p>20 A. We used the information we had and</p> <p>21 created our own model for -- aided by INtex, but</p> <p>22 we created our own model, yes.</p> <p>23 Q. Which employees at your firm worked on</p> <p>24 creating that model?</p> <p>25 A. John Schrader led that team, and John</p>

<p style="text-align: right;">Page 230</p> <p>1 Pfeiffer - Confidential  2 was supported by a number of other employees.  3 MR. CHRISTENSEN: How much of the 35 do  4 we have left?  5 THE REPORTER: We're like two, three  6 minutes over, actually.  7 MR. CHRISTENSEN: Oh, okay.  8 Q. Did you consider using servicer advance  9 rates in connection with determining losses to the  10 trusts?  11 A. I don't know.  12 Q. Do you know what servicer advance rates  13 are?  14 A. I know what servicer advance rates are,  15 yes.  16 Q. So you don't know whether you used  17 those in your work determining losses. Okay.  18 Did you consider cash flow triggers?  19 A. I don't know.  20 Q. You do know what cash flow triggers are  21 in terms of RMBS; correct?  22 A. I have a general understanding of what  23 it is, yes.  24 Q. In your view does INtex have  25 limitations in modeling losses going out 30, 40</p>	<p style="text-align: right;">Page 232</p> <p>1 Pfeiffer - Confidential  2 A. That would impact your severity rates.  3 Q. And what about occupancy rates?  4 A. We considered occupancy rates in the  5 same way.  6 Q. And what about loan-to-value  7 information?  8 A. Of course.  9 Q. And FICO scores?  10 A. Of course.  11 Q. Now, is it correct that you estimated  12 the claims to range from 409 million to 793  13 million in your report?  14 MR. KOTWICK: Objection to form.  15 MR. KOH: Objection.  16 A. That's projected claims.  17 Q. Now, is there any relationship between  18 that 409 to 794 range and your opinion as to  19 reasonableness that is set forth in your  20 conclusions, in the conclusions of your report?  21 MR. KOH: Can I hear the question  22 again, please.  23 Q. Sure. Is there any relationship  24 between that 409 million to 794 million range and  25 your opinions as to reasonableness that is set</p>
<p style="text-align: right;">Page 231</p> <p>1 Pfeiffer - Confidential  2 years?  3 A. My understanding is that whatever  4 limitations INtex has we allowed for and  5 supplemented based on our own model and  6 experience.  7 Q. How did you determine severity rates?  8 A. We looked at -- we looked at the  9 historical severity rates for these types of --  10 for the cohorts, and we looked at market estimates  11 with respect to severity rates going forward.  12 Q. What services were those?  13 A. I don't recall referring to a service.  14 Q. Did you use any third-party research in  15 determining severity rates?  16 A. We -- my team reviewed third-party  17 research, yes.  18 Q. Whose research?  19 A. I can't tell you all the -- all the  20 research they looked into, but they looked at all  21 the available market research.  22 Q. Did you consider housing price  23 appreciation?  24 A. Yes.  25 Q. And how did you do that?</p>	<p style="text-align: right;">Page 233</p> <p>1 Pfeiffer - Confidential  2 forth in the conclusions at the beginning of your  3 report?  4 A. Yes.  5 Q. And what is that relationship?  6 A. The range of projected claims impacts  7 the total amount of the notional claims, which  8 impacts the extent to which the 47 wrapped trusts  9 will get a recovery from the rehabilitation plan.  10 Q. Now, did you consider the range of 409  11 million to 793 million to be just unacceptably  12 wide in connection with giving an opinion as to  13 the reasonableness of the \$253 million payment?  14 A. We considered it to be an acceptable  15 range.  16 Q. So you were able to give a range as to  17 the acceptability of the 253 million even though  18 the range of payments under the FGIC  19 rehabilitation plan was affected by that 409 to  20 793 million dollar spread; correct?  21 A. We were able to give an opinion, yes.  22 Q. What was that opinion?  23 MR. WEITNAUER: Asked and answered.  24 A. That opinion was that the commutation  25 proposal is provided by FGIC is within the range</p>

<p style="text-align: right;">Page 234</p> <p>1 Pfeiffer - Confidential  2 of expected payments under the plan of rehab on a  3 discounted cash flow basis.  4 Q. Now, do you see in paragraph 36 you use  5 roll rate transition matrices and it says, Based  6 off of all RFC and GMACM-issued trusts?  7 A. I'm sorry, what paragraph is that?  8 Q. Thirty-six.  9 A. Okay. What's your question?  10 Q. All right. You've had an opportunity  11 to look at paragraph 36?  12 A. Yes.  13 Q. All right. Do you consider the RFC and  14 GMACM trusts representative of the ResCap trusts  15 at issue in this case?  16 MR. WEITNAUER: Objection to form.  17 A. I don't understand the question.  18 Q. Did you do roll rate transition  19 matrices for ResCap trusts?  20 MR. WEITNAUER: Object to form.  21 A. We did roll rate matrices for ResCap  22 trusts, yes.  23 Q. All of the ResCap trusts, all 47?  24 A. No, all 392.  25 Q. And that includes, then, the 47 that</p>	<p style="text-align: right;">Page 236</p> <p>1 Pfeiffer - Confidential  2 Q. And in the high case you have 74  3 percent accruing by 2017?  4 A. Yes.  5 Q. All right. And do you see that under  6 the notional claims Lazard has it at 23 percent  7 for up to 2017 for the base and 17 percent for the  8 stress? Do you see that?  9 A. Yes.  10 Q. Can you tell me why there's such --  11 apparently such a difference in the amount of  12 cumulative claims for your work versus Lazard's  13 work?  14 A. Because you're comparing apples to  15 oranges. The numbers on the bottom are claims,  16 and therefore, you know, it starts at 65, goes to  17 80, and necessarily has to go to 100; right?  18 Q. Yes.  19 A. The numbers you looked at before,  20 Lazard, that's not percent of claims received;  21 rather that is the CPP. So as you know, as you  22 likely know, the CPP starts at 17.25. That's why  23 it says 17 percent.  24 And under the base case it's projected  25 to go up to 38.5, I believe. That's why it says</p>
<p style="text-align: right;">Page 235</p> <p>1 Pfeiffer - Confidential  2 you've been discussing earlier?  3 A. Yes.  4 MR. KOTWICK: I'm going to object. I  5 think we've gone beyond the six hours. We  6 haven't drawn a hard deadline. I understand  7 the witness does have commitments, so I ask  8 that you try to finish the questioning.  9 MR. CHRISTENSEN: I have to leave by 4  10 for a conference call.  11 MR. KOTWICK: We did start early. We  12 did agree to go six hours to accommodate you  13 guys. I think we need to wrap up.  14 MR. GELFARB: We'll be done very soon.  15 MR. SIDMAN: I may have a clarification  16 question or two so...  17 MR. GELFARB: Hold on.  18 Q. Can I direct your attention, please, to  19 page 8 of your May 15th report. Have you had a  20 chance to look at that?  21 A. Yes.  22 Q. Do you see that in the notional claims  23 under ResCap you have 80 percent of all the claims  24 within -- accruing by 2017?  25 A. Yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 Pfeiffer - Confidential  2 39 percent there. And under the stress scenario  3 it starts at 17. Pretty much the CPP remains at  4 17, bumps up a little bit to 20 at the end.  5 But it's not -- it's not -- you can't  6 compare -- your question didn't make any sense to  7 me.  8 Q. All right. Well, that's fine.  9 Now, in paragraph 48 you say that --  10 you seem to raise a fear or a concern that the  11 policyholders will stop paying premiums; is that  12 correct?  13 A. I wouldn't call it a fear or concern; I  14 would say it's one of the uncertainties that's  15 mentioned.  16 Q. Okay. Do you know whether the  17 rehabilitation plan actually prohibits the  18 offsetting of premium payments?  19 A. I think that's actually listed in the  20 actual paragraph. It says, The plan prohibits the  21 exercise of rights to set off premiums,  22 reimbursements, and other amounts against the  23 policy.  24 Q. So why do you consider that a risk? If  25 the agreement which is being so ordered by a court</p>

<p style="text-align: right;">Page 238</p> <p>1 Pfeiffer - Confidential  2 and entered by a court prohibits the setoff, why  3 do you raise that as an issue with respect to  4 determining whether the commutation payment is  5 reasonable?  6 A. Well --  7 MR. KOH: Objection.  8 Go ahead.  9 A. Well, even Lazard readily incorporates  10 a 10 percent reduction to the expected premium  11 streams. And it's certainly fair to be concerned  12 that the 10 percent might go higher. These are  13 policyholders that are not -- that are paying  14 premiums for -- to FGIC even though FGIC is not  15 performing under the plan -- not performing.  16 And therefore, to the extent that the  17 premiums exceed the amount that a policyholder  18 expects to receive, I think there's certainly a  19 risk that the premiums will stop being paid.  20 Q. All right. Notwithstanding that may  21 violate a court order?  22 MR. KOH: Objection.  23 A. Notwithstanding --  24 MR. KOH: Go ahead and answer.  25 A. Yes.</p>	<p style="text-align: right;">Page 240</p> <p>1 Pfeiffer - Confidential  2 capture that.  3 MR. KOH: All right. We've allowed --  4 MR. GELFARB: That's fine. I will pass  5 to my colleague, who I think may have  6 disappeared.  7 MR. KOH: Why don't you give us two  8 minutes. I don't know if Mr. Sidman is going  9 to have any questions or not. Let's establish  10 that. Thank you for wrapping up. I know both  11 the witness and I have appointments that we're  12 running late for.  13 (Pause.)  14 EXAMINATION BY  15 MR. SIDMAN:  16 Q. Mr. Pfeiffer, earlier today you were  17 testifying with respect to information that you  18 received from FGIC and Lazard in connection with a  19 meeting you had with them. Do you recall that  20 testimony?  21 A. Yes.  22 Q. In connection with your meetings -- not  23 focusing on FGIC, we're just focusing on Lazard.  24 In connection with your meetings with Lazard or  25 your team's meetings with Lazard, did you -- do</p>
<p style="text-align: right;">Page 239</p> <p>1 Pfeiffer - Confidential  2 Q. Do you think that that possibility has  3 been incorporated into the discount rates that  4 Lazard was using --  5 MR. KOH: Objection.  6 MR. KOTWICK: Objection.  7 Q. -- in the FGIC rehabilitation plan?  8 A. I think all the uncertainties are part  9 of the consideration and factors that are -- that  10 are a basis for assessing a discount rate.  11 Q. Okay. So do you consider these risks  12 to be something to be concerned about above and  13 beyond what's incorporated within the discount  14 rates that either you or Lazard applied to the  15 FGIC rehabilitation plan?  16 MR. KOTWICK: Objection to form.  17 MR. KOH: Objection.  18 A. I think these considerations speak to  19 the appropriateness of a discount rate. The  20 uncertainties speak to the appropriateness of a  21 discount rate, the uncertainty of the cash flow.  22 And to the extent that it is possible that the  23 cash flows themselves are also going to be  24 drastically different, as you see in the stress  25 case, I think that the discount rate does not</p>	<p style="text-align: right;">Page 241</p> <p>1 Pfeiffer - Confidential  2 you recall or do you know if you or Duff received  3 any nonpublic information from Lazard in those  4 meetings?  5 MR. BAIO: Object to the form.  6 A. I don't recall any specific  7 confidential information that we received from  8 Lazard in particular.  9 Q. So sitting here now you can't identify  10 any confidential information received by Lazard?  11 MR. BAIO: Object to the form.  12 A. That's correct. Lazard helped us  13 understand the plan, and with that kind of access  14 we had to Lazard, the descriptions we assumed to  15 be confidential. But I don't recall them  16 providing any specific information.  17 MR. SIDMAN: Thank you.  18 MR. BAIO: No questions.  19 MR. KOH: Thank you. This  20 deposition --  21 MR. GELFARB: Hold on.  22 (Discussion off the record.)  23 EXAMINATION CONTINUED BY  24 MR. GELFARB:  25 Q. Did you just discuss with any counsel</p>

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1 Pfeiffer - Confidential	1 Pfeiffer - Confidential
2 the issue of the disclosure of public information	2 MR. GELFARB: All right. Nothing
3 during the break? Excuse me, the disclosure of --	3 further. Thank you.
4 other than with this counsel, Mr. Hao, did you	4 MR. KOH: Does anybody else have
5 discuss with any counsel other than Mr. Hao --	5 anything? Then this deposition is concluded.
6 MR. KOH: Koh.	6 (Time noted: 4:06 p.m.)
7 Q. -- the issue of the disclosure of	7
8 nonpublic information to you by either Lazard or	8
9 FGIC?	9 ALLEN M. PFEIFFER
10 A. I had -- I had conversations with	10
11 Mr. Koh.	11 Subscribed and affirmed to before me
12 Q. Only with Mr. Koh?	12 this ____ day of _____, 2013.
13 A. Well, Mr. -- Mr. Sidman was there as	13
14 well. And my response, although very quick, was	14
15 consistent with what I just described on the	15 Notary Public
16 record.	16
17 Q. And what did you advise Mr. Koh and	17
18 Mr. Sidman?	18
19 A. I just hold you that I had said exactly	19
20 what I said on the record, was that I didn't -- I	20
21 don't recall anything specific that I received	21
22 from Lazard.	22
23 Q. And what did they say to you before you	23
24 told them that?	24
25 MR. KOH: Objection.	25
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1 Pfeiffer - Confidential	1
2 MR. SIDMAN: Objection.	2 C E R T I F I C A T E
3 A. They simply asked if there's a -- if I	3 S T A T E O F N E W Y O R K )
4 recall conversations with Lazard separate from	4 : ss.
5 FGIC and whether I think that Lazard as opposed to	5 C O U N T Y O F N E W Y O R K )
6 FGIC provided confidential information.	6
7 Q. And did Lazard ever throughout the	7 I, LAURIE A. COLLINS, a Registered
8 course of your engagement as a financial advisor,	8 Professional Reporter and Notary Public within
9 as an expert, convey to you what you deemed to be	9 and for the State of New York, do hereby
10 nonpublic information?	10 certify:
11 MR. KOTWICK: Objection, asked and	11 That ALLEN M. PFEIFFER, the witness
12 answered.	12 whose deposition is hereinbefore set forth,
13 A. I think, as I said earlier, they helped	13 affirmed to tell the truth and that such
14 us to understand the plan and other than that they	14 deposition is a true record of the testimony
15 did not convey to us anything specifically marked	15 given by the witness.
16 confidential that I recall.	16 I further certify that I am not related
17 (Continued on following page.)	17 to any of the parties to this action by blood
18	18 or marriage, and that I am in no way
19	19 interested in the outcome of this matter.
20	20 IN WITNESS WHEREOF, I have hereunto set
21	21 my hand this 24th day of July, 2013.
22	22
23	23
24	24 LAURIE A. COLLINS, RPR
25	25

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4	(212) 279-9424
5	CASE: IN RE RESIDENTIAL CAPITAL
	DEPOSITION DATE: July 24, 2013
6	DEPONENT: Allen M. Pfeiffer
7	PAGE/LINE(S)/ CHANGE REASON
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20	
21	_____ ALLEN M. PFEIFFER
22	SUBSCRIBED AND AFFIRMED BEFORE ME
23	THIS ____ DAY OF _____, 2013.
24	
25	_____ (NOTARY PUBLIC) MY COMMISSION EXPIRES:

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